

LAWS OF SOUTH SUDAN

NATIONAL ELECTRICITY BILL, 2015

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LAWS OF SOUTH SUDAN

NATIONAL ELECTRICITY BILL, 2015

In accordance with the Provisions of Articles 55 (3) (b) and 85 (1) of The Transitional Constitution of the Republic of South Sudan, 2011, the National Assembly, with the assent of the President of the Republic of South Sudan, hereby enacts the following:

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement

This Bill may be cited as National Electricity Bill, 2015 and shall come into force on the date of its signature by the President.

2. Repeal and Saving

Any legislation governing the subject of this Bill is hereby repealed; provided that all appointments made, proceedings, orders and regulations taken or made under the repealed legislation, except to the extent repealed or otherwise inconsistent with this Bill, shall remain in force until repealed or amended.

3. Purpose

The purpose of this Bill is to provide for the establishment of a regulatory framework to govern the Generation, Transmission, Bulk Supply, Distribution, Supply, export and import of electricity, and System Operation and related matters.

4. Authority and Application

- (1) This Bill is drafted in accordance with the provisions of Article 52, Schedule (A) paragraphs (39) and (47) and Schedule (C) paragraph (12) of The Transitional Constitution of the Republic of South Sudan, 2011 that grant the National Government legislative authority over management of electricity generation, transmission, distribution and related matters.
- (2) The provisions of this Bill shall apply to all matters related to electricity generation falling within the mandate of the National Government.

5. Interpretation

In this Bill, unless the context otherwise requires, the following words and expressions shall have the meaning assigned to them respectively:

“Area”	means any area of the Authority in any of the States of South Sudan and any other area determined by the Board of Directors;
“Assembly”	means the National Legislative Assembly;
“Authority”	means National Electricity Regulatory Authority;
“Bulk Supply”	means supply of electrical energy by a licensee to another licensee for the purpose of enabling the supply of electrical energy to consumers.
“Commission”	means the South Sudan Land Commission;
“Corporation”	means the Southern Sudan Electricity Corporation.
“Consumer”	means any person supplied or entitled to be supplied with electricity who is not a customer.
“Court”	means any competent court of the Judiciary of South Sudan.
“Customer”	means a person provided with electricity supply under a contract.
“Distribution”	means, in relation to electricity, transportation of electricity to any premises by means of electricity network consisting wholly or mainly of electric lines with a nominal voltage of not more than 33 kilovolts or such other voltage as the Minister may direct.
“Distribution and Supply Licence”	means a licence to distribute and supply electricity within a confined area specified in a licence.
“Electric Line”	<p>means any line used for carrying electricity for any purpose and includes, unless the context otherwise requires:</p> <ul style="list-style-type: none"> (a) any support for any line, including any structure, pole or other thing in, on, by or from which such line is or may be supported, carried or suspended; (b) any apparatus connected to any line for the purpose of carrying electricity; and (c) any wire, cable, tube, pipe or other similar assembly, including its casing or coating, which surrounds or supports, or is surrounded or supported by or

installed in close proximity to or is supported, carried or suspended in association with such line.

“Electrical Plant”	means any plant, equipment, apparatus or appliance used for purposes connected with generation, transmission, distribution and supply of electricity, other than: <ul style="list-style-type: none">(a) an electric line;(b) a meter used for measuring the quantity of electricity supplied to any premises or(a) an electrical appliance under the control of a consumer.
“Electricity Network”	means a system that consists of electric lines and electric equipment and used for transporting electricity.
“Generation”	means the production of electricity.
“Generation Licence”	means a licence to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be given.
“Government”	means the National Government of South Sudan.
“Grid”	means the interconnected electricity generation and transmission network.
“Isolated Electricity Supply System”	Means an electricity system comprising generation plants, distribution lines and supply to customers, operating in isolation of electricity grid.
“Licence”	means a licence granted by the Minister under this Bill.
“Licensee”	means a natural or legal person to whom a licence has been granted by the Minister under this Bill.
“Line”	means an electrical conductor which is designed or adapted for use of carrying electricity.
“Minister”	means the national minister responsible for electricity.
“Ministry”	means the national ministry responsible for electricity.
“Public Land”	means any land owned by any level of the Government, including any public highway or other place to which the public have access, whether on payment or otherwise.

"President"	means the President of the Republic of South Sudan;
"Rural Electrification Project"	means a project designed to ensure the provision of electricity to secondary towns, villages, and population clusters in rural areas and other rural communities, by the extension of the electricity network, or the construction of isolated electricity supply systems.
"Sector"	means an electricity industry
"State"	means any of the States within the decentralized system in South Sudan.
Sub-sector	means an entity legally engaged in any activity related to electricity industry, generation, transmission, distribution or sale of electricity.
"Supply"	means, in relation to electricity, supply through electric lines other than to premises occupied by a licensee for the purpose of carrying out the activities authorised in the licence.
"Tariff"	means a set of prices, rates, charges and fees reflecting costs associated with capacity, supply and delivery of electrical energy, which may vary by category of consumers, service voltage or time of use and may include any adjustment or formula, as may be approved by the Minister.
"Transmission,"	means, in relation to electricity, the transportation of electricity from a generating station to a substation, from one generating station to another or from one substation to another, by means of an electric network consisting, wholly or mainly, of electric lines with a nominal voltage of not less than 33 kilovolts or such other voltage as the Minister may direct.
"Transmission Licence"	means a licence to transmit electricity issued under this Bill.

CHAPTER II

ESTABLISHMENT AND OBJECTIVES OF THE AUTHORITY

6. Establishment of the National Electricity Regulatory Authority

There shall be established a body called National Electricity Regulatory Authority.

- (1) The Authority shall be an autonomous body corporate, with perpetual succession and a common seal and shall, subject to the provisions of this Bill, be capable in its corporate to;
 - (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, holding, changing and disposing of property, movable or immovable;
 - (c) borrowing and lending money;
 - (d) doing or performing all such other things or acts for the proper performance of its functions under this Bill
- (2) Subject to the provisions of section 6 above, the Board of the Authority shall consist of five members appointed by the President upon a recommendation by the Minister. The Executive Director shall be an *ex officio* member.

7. General Objectives of the Authority

- (1) The Authority shall exercise, perform and discharge its powers, functions and duties under this Bill and any other applicable law reasonably with fairness, impartiality, certainty, audit ability and independence and in a manner that is timely, transparent, objective and consistent with this Bill and such other applicable act, in a manner which they consider is best calculated to;
 - (a) maintain and secure stable electricity supply for South Sudan and to continue to improve the quality and enhance access to electricity;
 - (b) engage in regional and international electricity sub-sector cooperation and coordination;
 - (c) protect the interest of Consumers and other users in respect of the prices charged for, and the quality, service levels, variety of services provided in the electricity industry;
 - (d) improve the general wellbeing of local communities by provision of access to a secure and reliable electricity supply;
 - (e) encourage private sector participation in the electricity market in South Sudan;
 - (f) promote safety and service quality in the electricity industry;
 - (g) mitigate, where practicable, any adverse impact of electricity
 - (h) encourage and promote energy efficiency and the use of renewable energy in South Sudan.

8. Functions of the Authority

The Authority shall, in realization of the objectives of this Bill exercise and perform the following functions:

- (a) set and review tariffs and charges for the supply of electricity;
- (b) regulate the electricity market by granting Licences according to the provisions of this Bill and any other applicable act;
- (c) monitor, enforce, modify, suspend, revoke, or consent to the surrender of Licences in a manner consistent with the provisions of this Bill and any other applicable act;
- (d) determine and prescribe fees payable on any application for the grant of a Licence and the payment of interest or proportionate penalties in the event of default in the due payment of these fees;
- (e) monitor the performance of regulated entities and the functioning of the electricity market;
- (f) regulate third party access to the electricity industry's infrastructure; monitor and enforce the quality and performance of standards in the electricity industry;
- (g) enforce its own decisions, standards and rules;
- (i) receive and conduct inquiries and investigations (which may include inspections of any part of an Electricity Network) and hear complaints by any person regarding electricity activities;
- (h) facilitate the settlement of disputes between regulated entities; prevent the abuse of monopoly or market power in relation to the electricity industry;
- (j) carry out inspection of all licensee and other relevant entities and their electrical installations;
- (k) receive and review such documents, reports, ~~accounts~~ and information from licensee and other relevant entities, as required;
- (l) Educate consumers and promote the safe and efficient use of electricity
- (m) prevent discrimination in the provision and terms and conditions of electricity services; and
- (n) carry out such other functions as may be assigned to or conferred ~~on~~ to the Authority under the provisions of this Bill or any other applicable act.
- (o) monitor the performance and compliance with law and licence conditions, and the functioning of regulated entities of the electricity supply industry;

9. Powers of the Authority

Without prejudice to the generality of the foregoing provisions of section 8 above, the Authority shall have the powers to:

- (a) grant a Licence and determine the conditions to be included in a Licence;
- (b) modify a Licence in accordance with the provisions of this Bill or any other applicable act;
- (c) terminate a Licence;

- (d) require such documents, reports, or information from applicants for Licences. Licensees and other interested persons in relation to electricity activities within such time periods or at such intervals as the Authority may from time to time require;
- (e) subject to any provisions to the contrary in this Bill or in any other applicable act, to publish information, reports and other documents;
- (f) give directives and make orders to a Licensee concerning electricity activities in cases where the Authority is authorised to do so under any conditions contained within a Licence;
- (g) where provided for under any applicable act, to determine when and in respect of which electricity activities, a person may be exempted from an obligation to obtain a Licence; and,
- (h) impose any of the sanctions provided for under this Bill or any other applicable Act.
- (i) modify, suspend, revoke and approve or renew licence.

CHAPTER III

ESTABLISHMENT, COMPOSITION, POWERS AND FUNCTIONS OF THE BOARD OF THE AUTHORITY

10. Establishment and Composition of the Board

- (1) There shall be established within the Authority a Board of Directors to be responsible for discharge of powers and functions of the Authority.
- (2) The Board of the Authority shall consist of five members as follows:
 - (a) Chairperson;
 - (b) Deputy Chairperson;
 - (c) Two members; and
 - (d) Executive Director

11. Appointment of Members

- (1) The President, upon recommendation of the Minister, shall appoint members of the Board in accordance with the provisions contained in section 12.
- (2) Members of the Board shall be vetted and approved by the National Legislative Assembly.
- (3) The term of office of a member of the Board shall be five years from the date of appointment.
- (4) A member of the whose term of office is due to end otherwise than by removal shall be eligible for reappointment for not more than one further term of office (whether consecutive or otherwise).

- (5) Members of the Authority except the Executive Director shall be paid on part-sitting (or part-time) basis. Members of the Authority shall exercise, perform and discharge the powers, duties and functions of the Authority on a part-time basis, in accordance with the terms and conditions of their respective letters of appointment.

12. Selection Criteria for Appointment of a Member

- (1) The Minister shall, before recommending the appointment of any person as a member of the Authority under this Bill, satisfy himself/herself that such person is qualified for appointment under this section.
- (2) The Minister may require any person being considered for appointment as a member of the Authority to furnish him with such information as he may require for the purpose of discharging his functions under this Bill.
- (3) The members of the Authority shall be persons with ability and integrity and have shown capacity in addressing problems relating to engineering, law, economics, business management, accountancy or administration. The Member shall have as a minimum, a bachelor's degree (or its equivalent) awarded by a recognized University.
- (4) Without prejudice to the generality of subsection (1) above, a person shall be eligible for appointment to serve on the Authority if he meets the following additional requirements if he/she is:
 - (a) a South Sudanese citizen;
 - (b) of sound mind;
 - (c) at least 35 years of age;
 - (d) not a holder of an official office in, or an employee of a political party;
 - (e) not a holder of an elected position at any level of Government;
 - (f) not an discharged bankrupt or insolvent;
 - (g) not convicted of crime involving dishonesty or moral turpitude.
 - (h) not a connected person has any financial or other interest amounting to a conflict of interest, directly or indirectly, in any company or undertaking which carries on any public utilities industry.

13. Resignation and Removal of an Authority Member

- (1) The Council of Ministers, upon recommendation of the Minister, may remove a member of the Authority from office after compliance with the procedure set out in this section.
- (2) The Council of Ministers shall not remove a member of the Authority from office unless a notice in writing has been sent to the member that it is proposed to be removed from office on any one or more of the following grounds, namely, that he/she:
 - (a) is an undercharged bankrupt or has made any arrangement with his creditors; or
 - (b) is found or declared to be of unsound mind under any law in force in South Sudan;

- (c) has ceased to be qualified to continue as a member, or is disqualified from continuing as a member;
 - (d) is incompetent;
 - (e) has committed gross misconduct;
 - (f) is absent without permission or sufficient cause from three consecutive meetings of the Board; and/or,
 - (g) is convicted of an offence involving dishonesty, fraud or moral turpitude;
- (3) An Authority Member may resign by a letter addressed to the Minister through the Board of Director
- (4) Where a member of the Authority vacates office by death, resignation or other cause, the Minister shall recommend, having regard to the provisions of section 12, another suitable person in his or her place, and the person so appointed shall hold office for the remaining term of office of the member whom he succeeds.

14. Functions and Duties of Executive Director

- (1) Management of the Authority shall be the direct responsibility and duty of the Executive Director as its chief executive. The Executive Director shall be assisted in his or her day-to-day management functions and duties by such deputies as the Board may from time-to-time appoint.
- (2) Without prejudice to the generality of subsection (1), above, and subject to this Bill and to the general supervision and control of the Board, the Executive Director shall have administrative, financial and technical powers required for the performance of the work of the Authority, including, but not limited to:
 - (a) representing the Authority in official functions and occasions, locally, regionally and internationally;
 - (b) initiate policies and framework documents of the Authority;
 - (c) approving project and programme activities proposed by the committees and/or directorates;
 - (d) preparing an annual budget and overseeing the use of the funds of the Authority;
 - (e) providing periodic reports to the Board and to the Minister;
 - (f) appointing, within budget limitations, the officers and support staff of the Authority in accordance with Public Service laws and regulations;
 - (g) initiating internal policies and procedures including job-descriptions of the support staff and the organisational chart referred to in section 18 of this Bill;
 - (h) Monitoring and evaluating the performance of the Authority;
 - (i) the development of an operating plan to guide the Authority in achieving its objectives;
 - (j) the development of an economic, efficient and cost effective internal management structure;
 - (k) proposing and implementing the strategic, business and annual plan of the Authority;
 - (l) providing advice as required on all matters within the Authority's responsibility; and,
 - (m) performing any other duties necessary for the implementation of this

Bill as may be assigned to him by the Board, or any other functions and duties as may be prescribed by any other law.

15. Eligibility of Executive Director

- (1) The Executive Director shall be selected from among persons of high moral reputation and integrity and shall possess the following qualifications,
 - (a) is registered with the statutory body responsible for registration of engineers in South Sudan as a registered engineer in the field of electrical engineering or acceptable body and is a member of the Institution of Engineers of South Sudan or another acceptable institution or other internationally accredited institution; and
 - (b) has at least fifteen (15) years of experience in the field of electrical engineering.
- (2) Without prejudice to the generality of subsection (1), above, a person shall be eligible for appointment to serve as the Executive Director if he meets the following additional requirements-
 - (a) is a South Sudanese citizen;
 - (b) is of sound mind and high integrity;
 - (c) is at least forty years of age;
 - (d) is not a holder of an official office in, or is an employee of a political party;
 - (e) is not a holder of an elected nor is appointed position at any level of Government;
 - (f) possesses the skills and knowledge relevant to the work of the Authority or qualifications deemed relevant to the position;
 - (g) is not an undercharged bankrupt or insolvent; and,
 - (h) has not been convicted of an offence involving dishonesty or moral turpitude.

16. Tenure, Resignation and Removal of Executive Director

- (1) The Executive Director shall hold office for a term of four (4) years and shall be eligible for reappointment for one more term.
- (2) The Executive Director may resign by a letter addressed to the Minister through the Authority.
- (3) The Executive Director shall, be removed from office by a Minister upon a recommendation of Authority;
- (4) Reasons for removal under subsection (3) above shall include-
 - (a) Ineligibility for appointment under section 13 of this Bill;
 - (b) Inability to perform the functions of his office due to mental or physical infirmity;
 - (c) Gross misconduct;
 - (d) Incompetence;
 - (e) Absence without permission or sufficient cause from three consecutive meetings of the Board;
- (f) Conviction of an offence involving dishonesty, fraud or moral turpitude;
- (g) He/she is removed from office by the President of South Sudan; and

- (h) Upon his/her death.
- (5) Where the Executive Director is removed from office, resigns or dies, he/she shall be duly replaced under the same conditions, and in the same manner, as if he was appointed under section 12 of this Bill.

17. Declaration of Assets

Members of the Authority, the Executive Director, and any senior officials employed by the Authority shall, upon assumption of their offices, make confidential declaration of their assets and liabilities including those of their spouses and children in accordance with the applicable law.

18. Other Officers and Staff of the Authority

- (1) The Executive Director shall engage, within budgetary limits, such other senior officers and support staff with the consent of the Authority on such terms as he may consider necessary or desirable for the efficient and effective performance of the functions and duties of the Authority.
- (2) The Executive Director shall on annual basis, prepare a detailed organisational chart reflecting the Authority's staffing requirements for the next financial year, subject to the approval of the Authority.
- (3) The organisational chart shall be developed in consultation with the Ministry of Finance and Economic Planning and the Ministry of Labour, Public Service and Human Resource Development, and shall take into consideration the needs of the Authority and the financial limitations of the Authority's funding.

19. Oath

Board Members and the Executive Director of the Authority shall, before assuming their duties, or affirmations before the relevant appointing authority take the following oath:

"I....., do hereby swear by the Almighty God/solemnly affirm that as Board Member/Executive Director of the South Sudan Electricity Regulatory Authority, *shall be faithful, and shall diligently and honestly discharge my functions and duties and shall strive to exercise the powers vested upon me by the South Sudan Electricity Regulatory Authority Bill, with integrity and dignity in the best interest of the people of South Sudan; and that I shall respect and abide by all the rules, regulations and instructions there under; and that I shall not without due authority disclose or make known any information, matter or thing that comes to my knowledge by reason of my employment in the Authority so help me God/God is my witness*".

20. Restriction on Outside Employment

The Executive Director and staff of the Authority shall not practice any private profession, transact commercial businesses, or receive remuneration or accept employment of any kind from any other source other than the Authority, unless he/she resigned officially prior to his/her intention to practice any of the above.

21. Confidentiality

- (1) Any information from which an individual or body may be identified and that is acquired by the Authority in the course of the performance of its functions or the exercise of its powers under this Bill or any other applicable act shall be regarded as confidential by the Authority and its employees.
- (2) No information of a type referred to in subsection (1) above may be disclosed without the consent of every individual who, and everybody which, can be identified from that information, except to the extent that its disclosure is expressly authorised or required by or under this Bill or any other applicable act or where it appears to the Authority to be necessary:
- (3) In the interests of the investigation, detection, prevention or prosecution of crime; in connection with the discharge of any international obligation to which South Sudan may from time to time be subject;
- (4) to assist, in the public interest, any authority that appears to the Authority to exercise, in a place outside South Sudan, functions corresponding to some or all of those of the Authority within or outside South Sudan; or
- (5) to comply with the directives of any division of any Court.
- (6) Without prejudice to subsections (1) and (2) above, any information communicated to the Authority by a committee of the Government shall be regarded as confidential if that committee of the Government so requests, and shall be kept confidential by the Authority and its members and employees; and no such information shall be disclosed except in compliance with the directive of any division of any Court.
- (7) A person who discloses information or who causes or permits the disclosure of information in a manner which he knows or has reasonable cause to believe is in contravention of this section shall be guilty of an offence and if convicted shall be liable in accordance with the provisions of this Bill.

CHAPTER IV

POWERS AND FUNCTIONS OF THE MINISTRY

22. General Objectives of the Ministry

- (a) develop, policies, strategies, programmes and plans for the electricity sub-sector;
- (b) improve the general wellbeing of the local communities by provision of access to electricity supply;
- (c) encourage private sector participation in the electricity supply industry, by offering reasonable terms;
- (d) promote allocation of sufficient resources for the electricity supply industry;
- (e) mitigate where practicable any adverse impacts of electricity supply activities on the environment;
- (f) encourage and promote energy efficiency and the use of renewable energy.

- (g) establish and manage a Rural Electrification Fund in accordance with this Bill and the regulations.

23. Powers and Functions of the Ministry

- (1) The Ministry shall, in realization of the objectives of this Bill exercise and perform the following powers and functions:
 - (a) provide technical assistance concerning distribution of electricity and rural electrification;
 - (b) establish and manage a Rural Electrification Fund;
 - (c) educate consumers and promote the safe and efficient use of electricity and
 - (d) collect data, conduct surveys and studies, prepare statistics, and establish and maintain an inventory containing all obtained information relevant for the development and regulation of the electricity sector.
 - (e) Prior to the establishment of the Authority as stated hereof; the Minister shall exercise the powers and functions of the Authority as stated in section 8 of this Bill.

24. Powers and Functions of the Minister

The Minister shall, in performance of the functions provided under this Bill:

- (a) decide upon applications for licences regarding generation, transmission, distribution, export and import of electricity in consultation with Authority;
- (b) determine, and publish fees payable on an application for grant or renewal of a licence and charges payable for default to renew licence.
- (c) grant exemption from some obligation under a licence in consultation with the Authority.
- (d) issue guidelines, procedures, standards, rules and regulations.
- (e) engage in regional and international electricity sector cooperation and coordination;
- (f) supervise the South Sudan Electricity Corporation; and
- (g) chair the Rural Electrification Agency.

25. Emergencies and National Security

- (1) The Minister may give such directives to licensee and other persons, as may be necessary, in the circumstances for the purpose of:
 - (a) preventing or mitigating effects of any emergency or natural disaster or otherwise in the interests of national security in the opinion of the Minister may be likely to disrupt electricity supply or
 - (b) protecting health and safety; ensuring the security of properties and installations used for purposes related to generation, transmission, distribution or supply of electricity.
- (2) A direction given under subsection (1) of this section may include provisions for the prohibition or regulation of the generation, transmission, distribution or supply of electricity, including:

- (a) authorising electricity suppliers or users to disregard or fall short in discharging any statutory, regulatory or contractual obligation, relating to or involving the supply or use of electricity and
 - (b) directing any generation licensee in respect of each of its generation facilities to:
 - (i) operate or otherwise that generation facility for specified period at specified levels of capacity or using specified fuels or
 - (ii) make such arrangements with respect to stocks of fuel and other materials held at or near that generation facility for the purposes of its operation to enable the stocks to be brought and maintained at a specified level and time frame.
- (3) A person to whom this section applies shall give effect to any direction given under sub-section (1) of this section irrespective of any other duty imposed on him or her by or under this Bill.

CHAPTER V

FINANCE, AUDIT AND REPORTING

26. Operational Principle

The Authority shall manage its finances in accordance with sound financial principles and best practices and shall in that respect ensure that its revenues are sufficient to meet its expenditures, including payment of operational costs.

27. Sources of Funding

- (1) The Authority operations shall be funded by an approved and allocated budget approved in accordance with the Public Finance Management and Accountability Bill Act, 2010 and any other sources and shall include, but not limited to:
- (a) grants, donations and bequests from local or foreign bodies;
 - (b) financial support from international donor agencies;
 - (c) all such sums of money as are recovered by the Authority as levies under this Bill;
 - (d) all such sums of money as are received by the Authority in the exercise, performance and discharge of its powers, duties and functions under this Bill or any other applicable Act, including fees received by the Authority for the grant or renewal of Licence under this Bill;
 - (e) all sums of money as are received by the Authority by way of loans, gifts or grants from any source whatsoever; and
 - (f) all such sums of money as are authorised or required to be paid in the Fund by any provisions of this Bill or any other applicable Act; and,
 - (g) any other source that may be approved by the President.

- (2) Each year, the Authority shall prepare and submit for approval a budget proposal, in accordance with the Government budget process, for the following financial year. Such budget proposal shall be subject to review, revision and approval by the Minister.

28. Grants and Loans to the Authority

- (1) The Minister may facilitate acquisition of grants or loans towards the expenses of the Authority incurred in carrying out its functions.
- (2) The Minister shall, facilitate ~~any~~ grant or loan under subsection (1), satisfy himself/herself that the estimated expenditure of the Authority in any year is likely to exceed its estimated income or has exceeded its income.

29. Bank Accounts

The Authority shall open and maintain one or more bank accounts as may be necessary for the performance of its functions and duties in accordance with the Public Finance Management and Accountability Act, 2010.

30. Accounts

- (1) The Authority shall maintain comprehensive books of accounts and records of all funds received and spent by the Authority during the previous financial year.
- (2) The Authority shall prepare and submit a financial report to the Minister not later than three months from the end of the previous financial year. The report shall include:
 - (a) a financial statement of income and expenditure during the financial year;
 - (b) a statement of assets and liabilities of the Authority for the financial year, prepared in accordance with generally accepted accounting principles
 - (c) a Financial Audit Report.

31. Audit

- (1) The Authority shall ensure that, for each financial year, the Auditor General audits the accounts of the Authority or such other audit firm approved by the Auditor General in writing and authorised by the Board.
- (2) The Minister shall ensure that within four months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, in accordance with the provisions of section 30 above, is submitted to the Ministry of Finance and Economic Planning.
- (3) The Auditor General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of the Authority

32. Annual and Other Reports

- (1) In addition to the Financial Audit Report, required by subsection (paragraph 25) 31 (2) (c) above, within four months after the end of each financial year, or such other period as designated by the Government in writing, the Authority shall also prepare an Annual Report of its activities during that financial year.
- (2) The Annual Report shall, *inter alia*, include the following information:
 - (a) a copy of the auditor's report;
 - (b) a statement of financial performance and of cash flows, budget performance and balance sheet;
 - (d) A description of the activities of the Authority during the previous year;
 - (e) An analysis of the extent to which it has met its objectives of the previous year;
 - (f) An evaluation as to the extent to which the advice and directives of the Minister have been complied with;
 - (g) Its objectives for the coming year; and,
 - (h) Any recommendations on the matters governed by this Bill.
- (3) The Authority shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Authority fails to distribute the Annual Report, the Ministry of Finance and Economic Planning shall distribute it.
- (4) The Authority shall submit to the President and the Assembly such other reports on its activities or any other matter that may from time to time be required.

CHAPTER VI

NATIONAL ELECTRICITY AND LICENSING OF PROVIDERS

The Authority shall exercise the powers and perform the functions provided in accordance to the Provisions of this Bill.

33. Obligation to Obtain a Licence

- (1) No person shall, without obtaining a licence, construct, own or operate the following:
 - (a) electricity generating plant;
 - (b) electricity transmission installations;
 - (c) electricity distribution installations and supply of electricity within a confined area specified in the licence or
 - (d) isolated electricity supply systems.

- (2) Licence for any of the projects stated in sub-Section (1) of this section, not involving national or significant public interests or adversely affecting other states, may be granted by the relevant authorities within the state where the project is located in consultation with the National Regulatory Authority.
- (3) No person shall sell electricity in bulk, export or import electricity without licence.
- (4) Prior to establishment of the Authority the Corporation, with approval of the Minister, shall be the issuing authority of the licences under this Bill.
- (5) Without prejudice to the general application of the provisions of this Chapter, projects regulated by agreements between the Government and a project developer prior to the enactment of this Bill, shall be granted the applicable licences reflecting the existing terms of each of those agreements without introducing additional obligations on the project developer.
- (6) The procedures, eligibility requirement, obligations and rights related to licensing for licensee shall be provided under regulations made under this Bill.

34. System Operations and Bulk Supply

- (1) The Authority may grant a person a license or designate a person holding a transmission licence responsibilities of system operation and bulk supply.
- (2) System operation and Bulk Supply shall involve:
 - (a) co-ordination of the electricity supply system to ensure instantaneous balance between generation and consumption of electricity;
 - (b) preparation of forecasts of electricity consumption, generation and transmission requirements;
 - (c) monitoring and keeping records of all relevant aspects of electricity supply, including exports and imports of electricity;
 - (d) purchase of electricity from generators and sales to distribution licensee and
 - (e) any other function prescribed in the licence or the by Regulations.

35. Application

- (1) Any person intending to construct, own or operate an electric project, subject to obtaining a licence pursuant to section of this Bill, shall submit an application to the Authority
- (2) The application shall contain information related to the relevant competence, experiences and financial standing of the applicant and available information with respect to the project and a proposal for terms of reference for a survey to be carried out to further assess the project and social and environmental impacts.
- (3) The application shall contain a summary of the survey reports, including but not limited to a description of the location and technical design illustrated by maps and drawings, expected impacts, proposed mitigating measures, ownership, estimated costs, offered tariff and sources of funding of the project, and any other information deemed relevant by the Authority.

- (4) Where found adequate and based on impacts of the project, the terms of reference for the survey shall be circulated to relevant stakeholders for comments prior to a final approval by the Minister.
- (5) The reports documenting the survey to be carried out shall be attached to the application.
- (6) The application with the attached reports documenting the survey to be carried out shall be circulated to other relevant authorities, the affected communities and relevant interest groups.
- (7) On the receipt of the application, a brief description of the project, location and time for review of the application by the public, and the opportunity to lodge comments or representations, shall be published in official gazette or in at least one widely circulated national newspaper.
- (8) Public consultations shall be organised in the project area as well as other relevant areas regarding public interest of such project.
- (9) Relevant authorities, affected communities, relevant interest groups may submit their representations to the Minister within thirty days after the end of the last consultations.

36. Factors to be Considered Regarding an Application

The Authority shall in evaluation of a licence application, take into consideration the following:

- (a) Approved National Electricity Sector Policy and any subsequent addendum;
- (b) Approved National and State Development Plans and any subsequent addendum;
- (c) need for electricity supply and provision of security to the relevant community
- (d) impacts of the project on the social, cultural and recreational life;
- (e) need to protect the environment and to conserve the natural resources;
- (f) costs of the project and financing arrangements;
- (g) administrative, commercial, technical and financial capacities of the applicant to render the services for which the license is required;
- (h) proposed tariff;
- (i) possible mitigating measures and
- (j) other relevant public and private interests that may be affected by the project.

37. Decision on an Application for Licence

- (1) When an application satisfies the terms enumerated in sections 12 and 13 of this Bill, the Authority shall recommend to Minister approval of the applicant application for licence the required licence.
- (2) Upon grant of licence under subsection (1) of this section, the ~~Authority~~ **Minister** shall notify other relevant authorities, affected communities and relevant interest groups of his or her decision within fifteen days from the date of such decision .
- (3) The grant of a licence shall not relieve the licensee of any obligation to obtain any approval, consent, permission or waiver required under any other applicable law.

- (4) In case of rejection of an application for licence, the Authority shall inform the applicant in writing with summary of reasons for rejection of such application and the applicant may, within a period of fifteen days from the date of receipt of the rejection, petition the Minister for review of the rejection and the decision of the Minister shall be final.

38. Transfer of Licence

- (1) In this section transfer of licence and control mean:
 - (a) acquisition of control over an entity holding such licence; and
 - (b) possession, directly or indirectly, of the power to direct or cause the direction of the management of that person, whether by ownership of shares, voting, securities, partnership or other means of ownership interests or agreements.
- (2) A licence may be transferred upon prior written approval of the Minister after consultation with the Authority.
- (3) The Minister shall not withhold approval to transfer a licence, without reasonable grounds related to the ability of the transferee to finance, construct, and operate the project subject of the required licence.
- (4) The Minister shall notify the licensee and the transferee within fifteen days of such decision.

39. Duration and Renewal of Licence

- (1) A licence shall remain valid for the period specified in it, provided that such period shall not exceed twenty-five years from the date of issuance of the licence.
- (2) A licensee may, within two years before the expiry of the licence, apply to the Minister through the Authority for renewal of the licence.
- (3) Where an intended renewal is likely to involve additional adverse impacts, to the extent considered relevant, licensing process as provided under sections 14 and 15 of this Bill shall apply.
- (4) Upon the recommendation of the Authority on application for renewal of licence, the Minister may approve renewal of a licence with such additional terms recommended by the Authority or new policy approved by the Government and the Legislature or reject renewal of a licence as recommended by the Authority.
- (5) On rejection of application for renewal of a licence, the Minister shall notify the licensee of his or her decision within fifteen days from date of such decision.

40. Suspension or Revocation of Licence

- (1) Upon recommendation of the Authority, the Minister may suspend or revoke a licence, if he or she is satisfied that the licensee has:
 - (a) not operated the project in accordance with the licence issued under this Bill.
 - (b) committed a breach which amounts to violation of one or more of the fundamental term or terms of the licence.

- (2) Before suspending or revoking a licence, the Minister shall give the licensee a notice stating the reasons for such suspension or revocation.
- (3) The Minister shall notify the licensee and the relevance of his or her decision, within fifteen days from the date of such decision.
- (4) The licensee shall after receiving the notice under subsection (2) of this section, may make a representation to the Minister as to why his or her licence may not be revoked or suspended.
- (5) On suspension or revocation of a licence, the Minister shall take necessary measures to ensure that electricity supply to affected consumers is not unduly interrupted due to the suspension or revocation.

41. Removal of Installations

- (1) When a licence is not renewed pursuant to section 18 of this Bill, the Minister may decide that the licensee on the expiry of such licence remove all installations considered inappropriate for further operations, at his or her expense to the satisfaction of the Minister; and
- (2) The provisions of subsection (1) of this section shall apply when a licensee decides to surrender such licence before its expiry.

42. Licence Fees

The licensee shall pay the fees for on an application, approval of licence and fines on default to renew the licence on due date as prescribed by the regulations issued under this Bill.

43. Operational Records

- (1) A licensee shall keep records of its operation in accordance with standards and requirements prescribed by the Ministry.
- (2) A licensee holding more than one licence shall keep separate operational records as stated in subsection (1) of this section.

44. Licence Register

- (1) The Authority shall maintain a register of granted licences containing:
 - (a) name, address and other contact information of every licensee; and
 - (b) copy of the licence.
- (2) Neither the licencing authority nor the licensee shall disclose any information considered confidential to a third party without prior consent of the other party unless required by law.

45. Supply of Electricity

- (1) Upon written request by potential customer for supply of electricity, the licence shall assess necessary conditions for such supply;
- (2) In case the licensee is satisfied that the potential customer has not met the necessary requirements for supply of electricity, the licensee shall provide the potential customer with costs for connection of supply;

- (3) In case the licensee is not satisfied with the requirements necessary for supply of electricity to the potential customer, the licensee shall inform such potential customers in writing, including the necessary measures the such potential customer has to take in order to meet the requirements for the supply;
- (4) In case the licensee is unable to meet the demand of the potential customer as requested, both the licensee and the potential customer shall agree on better way to address the issue;
- (5) If any person requests a supply of electricity pursuant to subsection (1) of this section, he or she shall give the relevant distribution and supply licensee information specifying:
 - (a) Details of premises in respect of which supply is required;
 - (b) Day on which the supply is requested to commence;
 - (c) Maximum power required at any time; and
 - (d) Minimum period for which the supply is required.
- (6) Responses of the licensee to the potential customer shall:
 - (a) State the extent to which the proposals specified in the request are acceptable to the licensee and specify any counter proposal of the destitution and supply; and
 - (b) Specify connection fees.

46. Exemption from Duty to Supply

A licensee shall not be required to give a supply of electricity to any premises pursuant to Section 22 of this Bill, if:

- (a) the licensee is prevented from doing so by circumstances outside his or her control and
- (b) doing so may involve the licensee being in breach of this Bill, regulations or licence conditions.

47. Publication of Terms of Supply

A licensee shall provide his or her customers with the agreed tariffs and terms of supply of electricity.

48. Costs Recovery

- (1) A licensee shall be entitled to recover his or her investment by:
 - (a) charge for the electricity supplied as measured in KWH;
 - (b) fixed commercial fee;
 - (c) rent or any other charge in respect of any electricity meter or electrical plant provided by the distribution and supply licensee.
- (2) The licensee may propose change in tariff to the Authority for review and approval; provided that such proposal does not discriminate against any person or class of persons.

49. Security in Distribution and Supply

- (1) A licensee may require potential customer to provide security for supply of electricity.
- (2) If a customer has not provided security or the security provided is insufficient:
 - (a) the licensee may, by notice require that person, within sevendays from the day of receiving the notice, to provide adequate security and
 - (b) failure to provide the security under paragraph (a) of this section shall entitle the licensee to disconnect the supply until the security is provided.

50. Dispute Resolution in Respect of Supply

- (1) Any dispute arising between a licensee and customer in respect of supply of electricity shall be referred by either party to the Authority and the decision of the Authority shall be final.
- (2) An objection to the decision of the Authority under subsection (1) of this section shall be made to the High Court.

CHAPTER VII

RURAL ELECTRIFICATION

51. Functions of the Ministry

The Ministry shall;

- (a) Supervise the National Electricity Authority;
- (b) develop and maintain rural electrification policies and a national strategy plan, to be approved by the Council of Ministers and the National Legislative Assembly;
- (c) establish and administer a fund known as the Rural Electrification Fund;
- (d) develop criteria for rural electrification;
- (e) periodically evaluate impacts of rural electrification projects on social and economic development;
- (f) submit annually to the National Council of Ministers report on progress and achievements regarding rural electrification, with references to the policies and national strategy plan;
- (g) Prepare annual investment plans identifying projects to be implemented in accordance with the policies and the national strategy plan and in consultation with a committee known as the Rural Electrification Agency; and
- (h) be responsible for oversight in meeting standards set for rural electrification;

CHAPTER VIII

ENFORCEMENT

52. Inspectors

The Authority shall appoint competent and qualified personnel to be inspector for the purpose of:

- (a) inspecting, testing and confirming of quality and safety of electric lines and electrical plants in accordance with standards, rules and regulations.;
- (b) inspecting, testing and confirming quality and safety of electric lines and electrical plants on premises in accordance with standards, rules and regulations;
- (c) executing such other duties as the Authority may determine.

53. Emergencies

In case of emergency, which is likely to affect safety, health damage to property or environment, the Minister may, upon recommendation by the Authority, suspend a licence of such licensee for the period of the emergency.

54. Search Warrant

- (1) Upon application by the Authority, public attorney may grant search warrant if he or she is satisfied that:
 - (a) there is reasonable grounds for suspecting that an offence has been committed under this Bill and
 - (b) that evidence of such offence is to be found in the particular premises.
 - (c) that evidence of such an offence is to be found on any particular premises.
- (2) The officer shall exercise all powers granted to police under the Criminal Procedure Code.

CHAPTER IX

APPEALS

55. Appeals from a Decision of the Authority

Unless otherwise expressly provided in this Bill--

- (a) where this Bill empowers the Authority or any of its organs to make a decision, the decision may be subject to appeal within the structure of the Authority in accordance with such administrative procedures ; and

- (b) nothing provided for in this section impairs the Court in the exercise of its supervisory jurisdiction.

56. Establishment of the Appeals Panel and Tribunals

- (1) The Minister shall, establish an Appeals Panel constituted of persons with experience and knowledge relevant to electricity industry activities and the regulation thereof and who are independent of any Licensees.
- (2) On the lodging of an appeal under section 57 below, the Minister shall appoint at least three persons from the Appeals Panel to sit as an Appeals Tribunal to perform the functions of the Appeals Tribunal as set out in section 57 below.
- (3) No member of the Authority or the Government may be a member of the Appeals Panel.

57. Right to Appeal

- (1) All decisions of the Authority made in the performance of its functions and duties and in the exercise of its powers under this Bill shall be final, other than a decision:
 - 1. to refuse to grant a Licence;
 - 2. to impose a Licence condition;
 - 3. that a Licensee is dominant in relation to a Relevant Market; or
 - 4. to suspend or revoke a Licence or impose any other sanctions under this Bill.
- (2) Any person aggrieved by a decision of the Authority may, subject to subsection (1) above, appeal to an Appeals Tribunal on one or more of the following grounds:
 - (c) that an error of law has been made;
 - (d) that a material error as to the facts has been made;
 - (e) that the decision was bias or that the Authority failed to act in accordance with its duties under this Bill
 - (f) that the Authority did not make reasonable attempts to obtain all relevant information within the relevant time period; or
 - (g) that the decision was not made in accordance with the procedure laid down in this Bill.
- (3) In determining an appeal, the Appeals Panel may:
 - (h) dismiss the appeal; or
 - (i) quash the decision of the Authority and, where the Appeals Panel quashes the decision, it may refer the matter back to the Authority and direct it to reconsider its finding.
- (4) An appeal under this section shall be brought without unreasonable delay and in any event not later than fourteen days from the date on which the Authority made its decision.

- (5) The Appeals Tribunal shall convene within fourteen days of receiving an appeal and shall conclude its deliberations within a further period of twenty-eight days, or such longer period as the Minister may approve, having regard to the nature of the appeal and reasons for the delay.
- (6) The effect of a decision to which an appeal under this section relates shall not, except where the Appeals Tribunal orders otherwise, be suspended in consequence of the bringing of the appeal.

CHAPTER X

MISCELLANEOUS PROVISIONS

58. Amendment of a Schedule

The Minister upon recommendation of the Authority may, by order, amend the schedule annexed to this Bill.

59. Regulations

- (1) The Minister may make such, rules and regulations necessary for implementation of the provisions of this Bill.
- (2) Without prejudice to the generality of subsection (1) of this section, the Minister may make the following rules and regulations:
 - (a) safety of personnel and consumers of electricity;
 - (b) quality of electricity supply;
 - (c) standards for electrical installations, equipment and wiring;
 - (d) tariffs and charges;
 - (e) licensing procedures;
 - (f) maintenance of proper data by a licensee; and
 - (g) metering and payment system of electricity bills.

SCHEDULE I

FELLING AND LOPPING OF TREES

Where a tree or its branch has grown within unsafe distance of electrical plant, the licensee shall apply to the competent authority for approval to fell or lop such tree or branch.