

CONSUMER ADVISORY COMMITTEE ON UTILITIES

COMMENTS ON

NOTICE OF PROPOSED RULE MAKING:

**THE RULES AND PROCEDURE FOR THE OPERATION AND
ADMINISTRATION OF THE ELECTRICITY SECTOR
SYSTEM BENEFIT FUND**

MAY 2018

The Consumer Advisory Committee of Utilities (CACU) was invited by letter dated April 27, 2018 to provide comments to the Office of Utilities Regulation (OUR) in relation to its Notice of Proposed Rule Making (MPRM): The Rules and Procedures for the Operation and Administration of the Electricity Sector System Benefit Fund (SBF).

The NPRM outlines, the creation of the SBF pursuant to section 50 of the *Electricity Act, 2015*, how the SBF is financed, the purposes for which the resources of the SBF are to be utilized and the rationale for the Rules. Section 50 of the *Electricity Act* provides:

- (1) There shall be established a Fund to be called the System Benefit Fund which shall be administered and controlled by the Office.*
- (2) The System Benefit fund shall be financed from:*
 - a. Tariffs, as the Office may direct;*
 - b. Fine collected pursuant to this Act;*
 - c. Monies from the Consolidated Fund; and*
 - d. Any other source.*
- (3) The resources of the System Benefit Fund shall be utilized –*
 - a. To increase the penetration of renewable energy or energy security;*
 - b. For the promotion of energy conservation*
 - c. For the purpose of providing electricity to rural areas; and*
 - d. For any other purpose that the Minister may prescribe by Order published in the Gazette.*

The Minister by Order dated August 16, 2017, provided for the System Benefit Fund to be utilized for the purpose of “*allowing the Jamaica Public Service Company Limited to recover the costs of implementing the Smart Streetlight Programme in accordance with the Electricity Licence, 2016*”.

The CACU now provides its comments on the proposed Rules as follows:

1. The CACU supports the establishment of the Rules and procedures for the administration of the SBF in order to ensure proper governance and management of the SBF.

2. *Application of the SBF:* The proposed Rules restrict use of the SBF for “*capital expenditures directly related to the purposes and objectives of the SBF...*” A rationale for this restriction is required as there is no such restriction under the *Electricity Act*. This is in light of the fact that the purposes for which the SBF is to be utilized may be effected through non-capital expenditures.
3. *Role of JPS:*
 - a. The CACU supports the proposed Rule that the JPS is to obtain the OUR’s no objection for SBF projects or programmes and apply to the OUR for approval of funding of such projects or programmes from the SBF.
 - b. It is recommended that proposals for SBF projects outline the short and long-term benefits of the proposed SBF project, particularly benefits to consumers and the intended beneficiary of such project or programmes.
 - c. Monthly cash flow projections as opposed to quarterly projections may be required dependent on the type of project being implemented.
 - d. It is recommended that the JPS be accountable for the timely and efficient implementation of its SBF Funded projects in addition to successfully implementing the same.
 - e. The CACU does not agree with the requirement to provide three quotations for major procurements to the OUR as this is a too onerous requirement. It is recommended that the requirement instead be that the JPS undertakes a competitive procurement process of goods and/or services over a specific monetary value, which said specific monetary value is to be stipulated in the Rules by the OUR, and provides evidence such competitive procurement as part of its reporting requirements.
4. *Role of the OUR:*
 - a. It is recommended that funds from the SBF be disbursed incrementally to entities implementing SBF funded projects based on the cash flow requirements of the project and against the progress of execution of the project.

- b. Additionally, it is recommended that there be a requirement that if there are any unused portion of SBF funds on completion or termination of the SBF funded project, it is returned promptly to the OUR.
 - c. The CACU is of the view that an important role of the OUR that is to be included in the Rules, is ensuring the financial sustainability of the SBF.
- 5. It is submitted that any person or entity could seek to develop SBF projects and seek funding from the resources of the SBF, as no person or entity has been designated under the *Electricity Act* to implement such SBF projects. It is further submitted that the OUR may itself seek to utilize the SBF to execute projects or programmes that advance the purposes of the SBF. Accordingly, the Rules and procedures is to make provisions to treat with such matters.
- 6. *Sources of Funding:* The proposed Rules do not make provision for the receipt of the other sources of funding of the SBF stipulated under the *Electricity Act*. It is recommended that the Rules make such provisions.
- 7. *Treatment of Assets:* As the SBF itself is not a legal entity the question is raised as to whether the SBF can legally own assets. It is recommended that this section be reviewed and consideration of whether or not it is the JPS or other entity implementing a SBF project is to own assets.
- 8. *Audits:* The CACU recommends that an Annual Report be prepared for the SBF.
- 9. The CACU is of the view that the SBF is to be maintained in Jamaican dollars as conversion of the funds to US dollars will affect the value of the Jamaican dollar through a non-value added source of revenue.
- 10. The CACU recommends the establishment of a SBF Steering Committee, to among other things approve request for funding of SBF projects. This Steering Committee may be a sub-committee of the Board of Directors with co-opted membership representing consumers, the Ministry and professional organization such as the Jamaica Institution of Engineers.
- 11. The OUR's management and administration of the SBF will require dedicated human resources to ensure its efficient operation. The OUR must ensure that it has the required capacity to fulfil its mandate of administering and controlling the SBF.