

Preparation and Promulgation of Electricity Sector Codes

The Electricity Act, 2015: Impact and Implications

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The Office of Utilities Regulation

- **The Office of Utilities Regulation Act (the “OUR Act”)** establishes the Office of Utilities Regulation (“OUR or Office”) as a multi-sector regulatory agency to regulate the provision of prescribed utility services in Jamaica.
- **Prescribed Utility Services**
 - Provision of telecommunications services;
 - Supply and distribution of water and the provision of sewerage services; and
 - Generation, transmission, distribution and supply of electricity.

The Office of Utilities Regulation

● **The Office of Utilities (Amendment) Act, 2015**

New Governance Structure - 7 Members of the Office:

- **6 Members appointed by the Governor General (tenure 5 years) and the Director General (ex officio member).**
 - a. **4 Members** – Prime Minister (PM) after consultation with the Leader of the Opposition
 - b. **1 Member** - PSOJ on the recommendation of the PM after consultation with the Leader of the Opposition
 - c. **1 Member** - Body appearing to the GG to represent the interests of consumers
- **Director General – responsible for the day to day management of the operations of the Office.**

The OUR Act

- **The OUR ensures that the interests of the utility consumers and those of the utility companies alike are protected.**
- **Ensures that:**
 - (a) the needs of the consumers of the services provided by the licensees met; and**
 - (b) the prescribed utility service operates efficiently and in a manner designed to:**
 - (i) protect the health and well-being of users of the service and such elements of the public as would normally be expected to be affected by its operation; and**
 - (ii) protect and preserve the environment; and**
 - (iii) afford to its consumers economical and reliable service.**

The OUR Act – Section 4

The Functions of the OUR/Office

- (i) To regulate the provision of utility services.**
- (ii) To receive and process applications for licences and make recommendations to the Minister in relation to the licences as are considered necessary or desirable (except for electricity).**
- (iii) Conduct such research as it thinks necessary or desirable for the performance of its functions.**
- (iv) Advise the responsible Minister on matters relating to the utility services as it thinks fit or as may be requested by the Minister.**
- (v) Carry out on its own initiative or at the request of any person, investigations relating to the provision of utility services as will enable it to determine whether the interests of consumers are adequately protected.**

The OUR Act - Section 4

- **Empowers OUR to undertake such measures as it considers necessary or desirable, inter alia to:**
 - **encourage competition in the provision of prescribed utility services;**
 - **protect the interests of consumers in relation to the supply of a prescribed utility service**
 - **promote and encourage the development of modern and efficient utility services.**
 - **enquire into the nature and extent of the prescribed utility services provided by a licensee.**
- **The OUR carries out quasi- judicial functions – (i) right to hold hearings, (ii) conducts investigations into disputed claims and alleged infractions of rules and regulations, and (iii) makes decisions in a general manner like a court.**

OUR - General Obligations

- **Although not explicitly stated in the OUR Act, the OUR in the exercise of its functions must:**
 - (i) act within the ambit of its powers;**
 - (ii) make rational decisions which are underpinned by sound reasons;**
 - (iii) act in a timely fashion**
 - (iv) observe reasonable standards of procedural fairness;**
 - (v) observe the rules of natural justice which includes:**
 - (a) the duty to consult in good faith with persons who are likely to be affected by its decisions;**
 - (b) giving persons the opportunity to make submissions to and be heard by the OUR; and**
 - (c) giving reasons in writing for each decision.**

Authoritative Instruments – Ambit of OUR Powers

- **General Legislation: The OUR Act;**
- **Sector Specific Primary Legislation: The Electricity Act, 2015;**
- **Subsidiary Legislation: The Electricity Licence, 2016 (the Licence), granted by the Government of Jamaica to the Jamaica Public Service Company Limited (JPS);**
- **Judicial Decisions (Tribunal & Courts);**
- **Determinations and Decisions of the Office; and**
- **Government Policy**

Electricity Act, 2015 - Objects

The objects are, inter alia, to:

- **Provide for a modern system of regulation of generation, transmission, distribution, supply, despatch and use of electricity.**
- **Promote transparency in the identification and allocation of costs revenues within and between participants in the sector.**
- **Facilitate the achievement of efficient, effective, sustainable and orderly development and operation of electricity infrastructure, supported by adequate levels of investments.**
- **Prescribe the required standards in the sector.**
- **Ensure the protection and safety of consumers of electricity and the public**
- **Ensure that the regulation of the sector is transparent and predictable.**

Electricity Act, 2015

Roles & Responsibilities

- **Minister:** planning the development of the system (which includes integrated resource planning; collection of data; consultations with the Office, JPS and other stakeholders); and issue licences for various activities
- **Generation Procurement Entity (GPE):** appointed by Cabinet to procure new generating capacity.
- **Government Electrical Regulator:** regulate electricians and electrical inspectors.
- **Office:** regulate the electricity sector generally.

The Electricity Act, 2015

Maintains the existing Single Buyer market structure.

- **JPS retains the exclusive right to transmit, distribute and supply electricity.**
- **Requires separate licences for the businesses of Generation, Transmission, Distribution, Despatch and Supply**



The Electricity Act, 2015

Licensing

- **The Minister is now solely responsible for the consideration and grant of licence.**
- **The OUR, by request, administers the Net Billing Programme on behalf of MSET.**

Electricity Licences:

Generation Licence; Transmission Licence; Distribution Licence; Despatch Licence; Supply Licence.

- **Self – Generators – No licence required.**
- **Persons involved in Net Billing Programme, Wheeling arrangements & Parallel operators – licence required.**

The Electricity Act, 2015

Basis of the grant of Licence

Minister may grant Licence:

- (i) Pursuant to a procurement under competitive bidding by GPE;**
- (ii) Pursuant to application for Net Billing, Wheeling arrangements or other arrangements (such as parallel operations).**
- (iii) Where Cabinet has determined that**
 - an emergency situation exist such as to make competitive bidding impractical;**
 - as an accommodation of an offer from a foreign government to the Jamaican Government that will benefit the electricity sector;**
 - due to exceptional circumstances or the prevailing economic and financial conditions in Jamaica, it is in the public interest to grant the licence.**

The Electricity Act, 2015

● **Obligation on Licensees**

- To develop and maintain a reliable, compatible/coordinated and safe system of electricity generation, transmission, distribution, supply & despatch systems.
- To ensure that it does not commit an act or omission that will adversely affect, directly or indirectly, the security and stability of electricity supplied by it or by any other person to consumers.

● **Obligation of Self-Generators**

- develop and maintain a reliable, compatible and safe system of electricity generation
- Obligation to operate and adhere to the Codes

The Electricity Act, 2015

Obligation of Generation Licensee

- **Duty to comply with all the directions of the System Operator relating to despatch activities or any other functions of the licensee that concern the System Operator.**

Duties of System Operator

- **Required to separate despatch activities from transmission and its activities relating to generation, distribution and supply.**
- **Establish a discrete System Operator department.**
- **Provide technical arrangements to the Office, Minister & IPPs for access to real time despatch activities.**

The Electricity Act, 2015

Duties of System Operator (Cont'd)

- **Abide by Merit Order Despatch**
- **Compensate consumer for its unjustifiable failure to despatch in accordance with the Merit Order (just reasons – failure due technical exigencies relating to reliability of supply or system stability).**
- **Absorb compensation for failure to adhere to the Merit Order, if awarded (cannot be passed to or recovered from consumers)**
- **Ensure that information pertaining to its despatch activities provided to a generation licensee is given to all generation licensees included in the despatch activity. Exception: information is limited to a particular generation licensee or is not otherwise relevant to the other generation licensees**

The Electricity Act, 2015

Duties of System Operator (Cont'd)

- **Develop and maintain a plan for restoring the system to normal operating levels in the event of a major system failure**
- **Major system failure – inform the Office and Minister of the status of the system as soon as practicable; seek to restore the system to normal operating levels as soon as practicable taking into account safety, reliability and economy; coordinating the bringing back on line any apparatus involved.**
- **Required to carry out investigations regarding the major system failure**

The Electricity Act, 2015

Duties of System Operator (Cont'd)

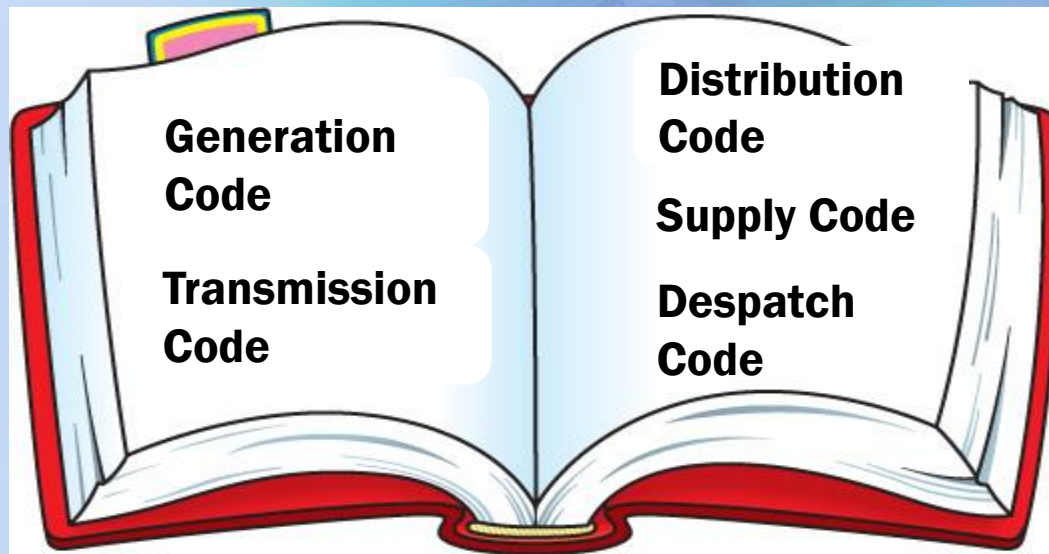
- **Submit report to the Office and the Minister on the major system failure within thirty (30) days of the system being restored.**
- **Provide regular status updates to the Minister.**
- **Major System failure - a system failure that is unplanned, affects at least one thousand (1000) customers and lasts at least two (2) hours.**

The Electricity Act, 2015

Section 47 – Obligations of the Office

- The Office with the approval of the Minister is responsible for the development and promulgation of Codes on its website or in any manner that it considers appropriate.

Electricity Sector Codes



The Electricity Act, 2015

- **Development of a fair and practical framework for the provision of electricity services in consultation with the stakeholders**
- **Facilitate orderly development; Affords fair and transparent treatment**
- **Publication of Codes:** to be published by 2016 August 26
- **Review of the Codes:** Every three (3) years by the Office in consultation with the stakeholders in the electricity sector.
- **Significant Power Outage:** Despatch Code shall contain a process whereby the Office shall investigate any significant power outage.

Electricity Act, 2015

Dispute Resolution

- **Establishment of the Electricity Appeal Tribunal**
- **Licensees aggrieved by a decision of the Office, or is failure to act may appeal to the Tribunal.**

The End

