

THE ELECTRIC LIGHTING ACT
&
THE OFFICE OF UTILITIES REGULATION ACT

The EAL/ERI Electric Lighting (Cogeneration) Licence, 1998

1. SHORT TITLE

This Licence may be cited as " The EAL/ERI Electric Lighting (Cogeneration) Licence, 1998 ".

2. INTERPRETATION

2.1 In this Licence—

"Act" means the Electric Lighting Act

"Agreement" means the Power Purchase Agreement dated April 15, 1997 between the Jamaica Public Service Company Limited and EAL/ERI Cogeneration Partners L.P.

" Government" means the Government of Jamaica

"JPS" means Jamaica Public Service Company Limited

"OUR" means Office of Utilities Regulation

"OUR Act" means Office of Utilities Regulation Act

"The Licensee" means EAL/ERI Cogeneration Limited Partnership a limited partnership duly organized under the laws of the State of Delaware in the United States of America and having its office at 255 Main Street, Hartford, Connecticut 06106 United States of America.

- 2.2 This Licence shall be read and construed subject in all respects to the provisions of the Act and the OUR Act and any statutory modification, consolidation or re-enactment thereto and all regulations made pursuant thereto. Unless the context otherwise requires expressions in this Licence shall bear the same meanings ascribed to those expressions under the Act.

3. GRANT OF LICENCE

The Minister pursuant to section 3 of the Act and upon the recommendation of the OUR pursuant to section 4 of the OUR Act hereby grants the Licensee a Licence to develop, operate and maintain cogenerating facilities and to sell and supply electricity therefrom to JPS and Jamaica Broilers Limited.

4. DURATION

Subject to the provisions herein contained the term of this Licence shall be twenty (20) years from the date hereof (hereinafter called "the date of the Licence").

5. LICENCE FEE

- 5.1 The Licensee shall pay to the OUR on April 1, 1998 for the period of April 1, 1998 to March 31, 1999 a licence fee of One Hundred and Fifty-Five Thousand Dollars (\$155,000.00).
- 5.2 The Licensee shall pay to the OUR on April 1, 1999 for the period of April 1, 1999 to March 31, 2000 a licence fee of One Hundred and Fifty-Five Thousand Dollars (\$155,000.00).
- 5.3 The Licensee shall pay to the OUR after April 1, 1999 an annual licence fee which becomes payable on April 1 each year calculated as follows:

$$\text{Licence Fee (LF)} = \text{LUSP} + \text{LHOST}$$

$$\text{LUSP} = \text{BUSP} \times \text{IPPR}$$

BUSP = The portion of revenue attributable to JPS in the audited financial statements for the financial year ending in the calendar year preceding the due date of the first instalment.

$$\text{IPPR} = 0.0003$$

$$\text{LHOST} = \text{BHOST} \times \text{CGR}$$

BHOST = The portion of revenue attributable to Jamaica Broilers from the sale of electricity in the audited financial statements for the financial year ending in the calendar year preceding the due date of the first instalment.

$$\text{CGR} = 0.004$$

- 5.4 The IPPR and CGR as stated in clause 5.3 are subject to annual review and modification.

6. DISCHARGE OF OBLIGATIONS AND POWERS OF LICENSEE

- 6.1 The Licensee shall discharge its obligations and perform the duties imposed or authorized under the Act, the OUR Act, the Agreement and any other applicable legislation, regulations, codes or standards

and shall enjoy the rights and exercise the powers conferred under the legislation and the Agreement.

- 6.2 The Licensee shall comply with any order made by the OUR under the OUR Act with all reasonable promptitude.
- 6.3 The Licensee shall not alter any of the terms and conditions of the Agreement without the written approval of the OUR

7. ASSIGNMENT OF LICENCE

The Licensee shall not have the right at any time during the term of this Licence to assign, or transfer this Licence to any company, firm, corporation, or individual.

8. Audited Accounts

- 8.1 The accounts of the Licensee shall be audited annually at the expense of the Licensee by an independent auditor of good standing and repute.
- 8.2 The Licensee shall send to the OUR within 3 months of the end of the Licensee's financial year a copy of the annual audited Balance Sheet and Profit and Loss Account of the Licensee related to the supply of electricity pursuant to this Licence and shall send to the OUR such operating and other statistics as the OUR may reasonably require.

9. SUSPENSION /REVOCATI ON

- 9.1 If it appears to the Minister after consultation with the OUR at any time during the Licence that -
 - (a) the Licensee has failed to provide electricity to JPS on the terms and conditions in the Agreement; or
 - (b) the Licensee has been in default in any material or serious particular of any of the obligations imposed on the Licensee by this Licence, and the Minister has by notice in writing to the Licensee required the Licensee to remedy such failure or default and the failure or default is not remedied within the period stipulated in the notice

then the Minister may suspend or revoke this Licence.

10. RIGHTS OF ACTION RESERVED

Nothing specified or contained in this Licence shall be construed as depriving the Licensee of its ordinary rights to appeal to Her Majesty's Courts to redress any wrongs it may suffer or to enforce any rights to which it may be entitled under this Licence or otherwise.

11. NOTICES

- 11.1 Any notice required to be delivered or given to the Licensee under this Licence may be delivered or given by registered mail addressed to the Licensee at its usual or last known address and if so given by mail shall be deemed to have been given or delivered five (5) days after the date on which it is deposited in the mail as registered mail.
- 11.2 The Licensee may change his address for the purpose of this clause by giving notice of such change by hand delivery, or registered mail, to the Minister and the OUR which change however, shall not become effective until it is actually received by the person to whom the notice is addressed.

Dated at Kingston this 9th day of June , 1998.

Robert D. Pickersgill
Minister of Mining and Energy