

CHAPTER 86A

ELECTRICITY SUPPLY ACT

• Act • Subsidiary Legislation •

ACT

Act No. 18 of 1994

Amended by

Act No. 26 of 1998

Act No. 12 of 2005

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CHAPTER 86A ELECTRICITY SUPPLY ACT

An Act granting exclusive licence to Grenada Electricity Services Limited, for the performance of functions relating to the supply of electricity throughout Grenada and for connected purposes, and making provisions in the event of revocation of the licence.

[Act No. 18 of 1994 amended by Act No. 26 of 1998, Act No. 12 of 2005.]

[4th October, 1994.]

1. Short title

This Act may be cited as the Electricity Supply Act.

2. Interpretation

In this Act—

“Arbitration Act” shall mean the Arbitration Act, Chapter 19;

“commencement date” means 4th October, 1994;

“Company” means Grenada Electricity Services Limited;

“consumer” means any person or public body supplied with electricity by the Company;

“debenture” means debenture, debenture stock, mortgage or bond issued by the Company and for the time being outstanding;

“electric line” means any wire or conductor erected or fixed on, under or over any land and used or to be used for the purpose of conveying, transmitting, or distributing electricity, together with any casing, coating, covering, tube, post, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, and any transformer, switchgear or other works or apparatus connected therewith for the purpose of conveying, transmitting or distributing electricity or transforming its voltage and together also with any building, structure or box required to accommodate any such transformer, switchgear or other works or apparatus;

“electric plant” means any electric generation equipment and other works or apparatus used in connection therewith for the purpose of generating electricity and

any fuel handling, storage or processing equipment and any other works or apparatus used in connection therewith for the delivery of fuel, together also with any building or structure required to accommodate any such equipment or other works or apparatus;

“electrical system” means electric plant and electric lines;

“electricity” includes electric voltage, electric current, electric energy and any like agency;

“Government” means the Government of Grenada;

“Government electricity inspector” means the official for the time being appointed to the office of electricity inspector for Grenada by the Minister and any persons acting on behalf of such official;

“Grenada” means for purposes of this Act all of the islands comprising the state of Grenada including Carriacou and Petit Martinique and the adjacent islands, all internal waters and all territorial waters (other than internal waters up to a distance of one thousand meters from the shoreline);

“judicial authority” means any authority having judicial jurisdiction over and within any area of Grenada;

“land” includes messuages, tenements and hereditaments, corporeal or incorporeal, of every tenure or description, whatever may be the estate or interest therein;

“licence” means the rights, privileges and obligations of the Company described in this Act;

“local authority” means any authority having municipal or administrative jurisdiction over and within any area in Grenada;

“Minister” means the Minister for the time being responsible for the supply of electricity in Grenada;

“owner” means the person having control or management of property (including any land, premises or road);

“person” includes any company or association or body of persons, corporate or incorporate, other than the Company and any public body or judicial authority;

“post” means pole, standard, bracket, stay, stay-wire, support, and any other contrivance for carrying, suspending or supporting a line;

“public body” means the Government and any department, undertaking or institution thereof or a local authority; or any authority, board, commission, committee or other body whether permanent or temporary, or paid or unpaid, which is invested with performing functions of a public nature;

“Public Utilities Commission” or “PUC” means the commission established by Act of Parliament to regulate rates charged by public utilities in Grenada and certain other matters pertaining thereto as set forth in the Public Utilities Commission Act, Chapter 269A;

“road” means any road or street or part thereof and includes all bridges, culverts, embankments, approaches, drains, verges, pavements, kerbs, footpaths, parapets and other works or things, forming part of any road or street including any adjacent land forming part of any public right-of-way;

“subsidiary company” bears the meaning assigned to it by section 154 of the Companies Act, 1948 of the United Kingdom, which is incorporated by reference;

“tree” includes any part of any growing wood, bamboo, undergrowth or other produce of the earth whether cultivated or not;

“undertaking” means all of the Company’s activities and property pertaining to or supporting the generation, transmission, distribution and sale of electricity by the Company in Grenada;

“unit” means one kilowatt-hour as registered on a meter provided by the Company.

3. Grant of licence

Subject as hereinafter provided in this Act, the Company shall have a sole and exclusive licence to generate, transmit, distribute and sell electricity in Grenada until December 31, 2073.

4. Sub-licences

With the consent of the Government, the Company may authorise in writing any person during the whole or any part of the period of the licence to generate, transmit, distribute and/or sell electricity upon the terms and conditions and within the area specified in such authority (any person so authorised being hereinafter referred to as a “sublicensee”).

5. No person shall generate, etc., electricity except the Company

(1) Subject to subsection (2), during the continuance of the licence no person except the Company shall generate, transmit, distribute and/or sell electricity within Grenada, except that a sublicensee shall be at liberty, during the period stated in the written authority granted to him or her by the Company, to generate, transmit, distribute and/or sell electricity upon the terms and conditions and within the area specified in such authority.

(2) Subsection (1) does not apply to—

- (a) a person generating electricity for his or her own consumption and use on any premises used exclusively for private residential purposes;
- (b) a person generating electricity for his or her own consumption and use (other than any person in paragraph (a)) solely during periods of interruption of supply of electricity by the Company to consumers, other than any interruption of supply pursuant to section 22 or any other discontinuance of the supply of electricity to any consumer which is authorised by this Act;
- (c) any person generating electricity for his or her own consumption and use on the day prior to the commencement date, but only to the extent of the maximum electric generation capability of such person’s generation equipment on such day; or
- (d) a person generating electricity for his or her own consumption and use and located in an area not supplied with electricity by the Company; provided that if the Company commences to supply electricity to such area any person may continue to generate electricity for his or her own consumption and use at up to the maximum electric generation capability of such person’s generation equipment on the day prior to the day the Company commences such supply of electricity.

(3) If any person contravenes the provisions of the preceding subsection, the Company may discontinue the supply of electricity to such person and without prejudice to the foregoing, such person shall be guilty of an offence and shall be liable, on summary conviction, to a fine of three thousand dollars or to imprisonment for six months, and in addition thereto, he or she may be ordered by any Court having summary jurisdiction to dismantle his or her equipment at his or her own expense within such time as such Court may prescribe and if he or she shall fail to obey the order of such Court within the prescribed time such Court shall order the equipment to be forthwith dismantled by the Company and shall order such person to pay the Company its charges for dismantling such equipment.

6. Type of supply

(1) The frequency of electricity supplied for any purpose shall be fifty cycles per second and this shall be maintained within plus and minus three per cent of such frequency. The voltage of electricity supplied for domestic purposes shall be two hundred thirty volts. The voltage of electricity supplied for purposes other than domestic purposes shall be between two hundred thirty volts and four hundred sixty volts as the Company may determine according to load conditions and the most economical method of supply. Such voltage shall be maintained by the Company within plus four per cent and minus eight per cent of such voltage (measured at the consumer's side of the Company's meter):

Provided that any consumer may, by agreement with the Company, be supplied with electricity at a voltage different from the voltage otherwise provided to such consumer under this subsection 1.

(2) In each year, beginning with year 1996, the Company will maintain in good operating order excess generating capacity equal to a minimum of twenty per cent of the average daily peak demand for the previous year. The average daily peak demand shall be the average of three hundred sixty-five daily peaks in demand (in kilowatts) in such year. Should the excess generating capacity be projected to fall below twenty per cent in a given year, the Company shall take immediate steps to increase such excess generating capacity to a minimum of twenty per cent. The Company shall operate its electrical system so as to meet the availability standards specified in the Fourth Schedule and calculated in the manner described therein.

(3) Subject to the provisions of this Act, the Company shall, within a reasonable time of being requested to do so in writing by the owner or occupier of any premises located in any area which is supplied with electricity by the Company on the commencement date or to which the Company commences supplying electricity after the commencement date pursuant to subsection (10) or (11), supply electricity for the premises in accordance with this Act, and shall furnish and lay any electric lines that may be necessary for the purpose of supplying the maximum power with which the owner or occupier of the premises is entitled to be supplied under this Act:

Provided that the Company may, but shall not be required to, supply electricity to any person generating electricity for his or her own use and consumption pursuant to section 5(2)(a), (c) or (d).

(4) The maximum demand of any consumer which the Company shall supply shall be the maximum consumption which is reasonably anticipated in view of the premises owned or occupied by such consumer and the legally permitted consumption of electricity on those premises. Any consumer shall furnish the Company with thirty days' notice of any anticipated increase in its demand which increase exceeds two hundred fifty kilowatts and the Company shall commence supplying electricity required to meet such increased demand not later than the expiration of such thirty day period.

(5) The Company may refuse to supply electricity to any person unless such person or, if different, the owner or occupier furnishes the security required by section 11 for the supply of such electricity and unless such person pays to the Company, and/or furnishes any security required by the Company pursuant to section 11, for the following costs—

- (a) in the case of premises served or to be served by an underground line, the costs and expenses of laying that line and in the case of premises served by an overhead electric line and located more than sixty feet distant from the nearest distributing main for the time being owned by the Company, the costs and expenses of laying that part of the line extending beyond such sixty foot point;
- (b) in the case of any reconnection of electricity service following any disconnection permitted under this Act, the cost and expenses of establishing such reconnection; and

- (c) in the case of an increase in the maximum anticipated demand pursuant to subsection (4) above, the costs and expenses incurred by the Company in altering any of the Company's electric line or facilities serving such consumer.

(6) The Company shall deliver electricity to a point on the exterior of any building or structure or such other point where the Company's meter shall be located, and the consumer shall be responsible for all wiring and any other installation, works or apparatus beyond such point which are necessary for the consumer's utilisation of such electricity. The Company may at its cost relocate any electric line, including relocating meters to the exterior of any house or building, in which event the consumer shall be responsible for any wiring or re-wiring from the consumer's terminals to the Company's meter except that in the case of a consumer whose average monthly consumption for the prior three months is less than two hundred fifty units, the Company shall be responsible for any such wiring or re-wiring:

Provided, the Company shall not be liable for damages for such wiring or re-wiring unless performed by the Company in a negligent manner or otherwise in contravention of any provision of this Act.

(7) Where the owner or occupier of any premises supplied with electricity by the Company uses any electrical installation, works or apparatus; uses electricity supplied to the premises for any purpose; or deals with the electricity supplied to the premises and any of the foregoing actions interferes with the efficient supply of electricity by the Company or the use of electricity by the Company or any other person, the Company may discontinue the supply of electricity to those premises for so long as the Company has reasonable cause to believe that the electrical installation, works or apparatus is or will be so used or dealt with.

(8) The Company may refuse to supply electricity to a consumer or discontinue the supply of electricity to a consumer unless the Company is reasonably satisfied that any installation, apparatus or works in or serving the consumer's premises (other than those of the Company) is in good working order and condition, is safe, complies with applicable standards and otherwise will not interfere with the efficient supply of electricity.

(9) Upon the filing of a complaint by any consumer with the Minister, any dispute arising under subsection (7) or (8) with respect to the existence of a condition or activity permitting the Company to discontinue the supply of electricity may be referred by the Minister within three days of receipt thereof to the Government electricity inspector for determination, and the Company shall supply electricity to such consumer if the Government electricity inspector shall determine that the alleged condition or activity permitting such disconnection does not exist or no longer exists.

(10) The Company may extend its electric lines so as to supply electricity to any person(s) whose premises are located in an area not presently supplied with electricity by the Company upon the request of such person, provided that in the event of any such extension, all of the costs and expenses incurred by the Company to lay such additional electric lines (including without limitation allocated administrative overhead and the costs of financing or leasing such electric lines) shall have been paid to the Company by such person(s) or such person(s) shall have furnished the security required by section 11 for such costs and expenses:

Provided, that after any such extension of service, the Company may require that as a condition to being supplied with electricity by the Company, any person subsequently requesting to be supplied with electricity over such additional electric lines contribute to the Company a portion of the costs and expenses of such lines and/or furnish any security required by the Company under section 11 for such costs and expenses and in such event the Company shall credit such payment to the account of any consumer(s) which have previously paid for such lines or refund to any such person upon demand the appropriate amount of any such contribution.

(11) The Company shall extend its electric lines so as to supply electricity to an area not at the time supplied with electricity by the Company upon the request of the Government or a local authority made through the Minister, provided that in the event of any such extension, fifty per cent of the costs and expenses incurred by the Company to lay such additional electric lines (including without limitation allocated administrative overhead and the costs of financing or leasing such electric lines) shall have been paid to the Company by the Government or such local authority.

7. Charges for electricity supplied

(1) Commencing as of the commencement date and during the term of the licence, the Company may prescribe and recover from consumers charges for electricity supplied to consumers at such rates as are in accordance with this Act:

Provided that the respective rates so prescribed for electricity supplied for any purpose do not exceed the rates specified in the statutory rates (hereinafter mentioned) for electricity supplied for the corresponding purpose.

(2) The statutory rates shall be the rates set forth in the First Schedule and (to the extent applicable) the Third Schedule, as adjusted in accordance with such Schedules and section 10 below, or such other rates as may be established at any time and from time to time after the expiry of the first ten years of the licence in accordance with section 10(6).

(3) Nothing in this section 7 or 10 shall affect the Company's right to recover any charges (other than the statutory rates) which the Company is authorised to recover under this Act.

(4) The Company shall be entitled to recover the statutory rates in full from consumers and any additional sums to which it is entitled pursuant to the terms of this Act without set-off, deduction or surcharge of any kind.

(5) In the event that the statutory rates are adjusted with retrospective effect, the Company shall be entitled to amend any accounts or bills rendered to consumers in respect of electricity supplied between the date on which such adjustment became effective and the date on which the amount of such adjustment was agreed or determined; provided that such accounts or bills shall be amended in case of a downward adjustment; provided further that in the case of an upward adjustment such adjustment shall be made in the same manner as specified in subsection 7 of Part II of the First Schedule.

8. Electricity supplied to the Government

(1) Whenever requested so to do, subject to the provisions of this Act respecting the supply of electricity by the Company and the rates and charges therefor, the Company shall supply electricity to the Government or any local authority, and to any non-governmental organisation for the use and consumption of the Government, local authority or non-governmental organisation, as the case may be.

(2) The Company shall charge the Government, local authority or non-governmental organisation, as the case may be, for all electricity supplied by the Company at the commercial power rate applicable from time to time in accordance with sections 7 and 10 and the First Schedule, after deducting from such rate a discount at the rate of ten per cent.

(3) The provisions of this section shall not apply to electricity supplied or to be supplied for the purpose of street lighting or for industrial or commercial purposes or for the use of any statutory corporation or any similar entity owned in whole or part by the Government.

9. Electricity for street lighting

(1) Whenever requested so to do, subject to the provisions of this Act respecting the supply of electricity by the Company and the rates and charges therefor, the Company

shall enter into a contract with the Government or with a local authority to maintain in good repair and condition street lamps (and associated fittings and equipment), which street lamps shall be provided by, or paid for by the Government or local authority in any manner which is acceptable to the Company, and shall supply electricity for use in street lighting.

(2) The Company shall be entitled to prescribe and to recover from the Government or the local authority such charges as the Company may from time to time prescribe for the provision and/or maintenance of street lamps (and associated fittings and equipment). In addition, the Company shall be entitled to recover as aforesaid its charges for electricity supplied for the purpose of street lighting at such rates as may be prescribed by the Company, provided that such rates do not exceed the statutory rates (mentioned in section 7) for the time being in force and applicable to electricity supplied for the purpose of street lighting.

(3) The Government or local authority shall be responsible to notify the Company if any street lamps are not operating, and the Company shall, upon receiving such notice, place such street lamp in operating condition, in accordance with its undertaking under this section.

10. Variation of statutory rates

(1) The Company may file with the PUC pursuant to the PUC Act a claim requesting an adjustment in the statutory rates for the time being in force at any time and from time to time for the purpose of adjustment of the statutory rates, to be determined in accordance with the method set forth in section 7 and this section.

(2) The PUC shall make a determination respecting such claim, accepting such claim, in whole or in part, with or without modification, or rejecting such claim in whole or in part. The Company shall within fifteen days of such order notify the PUC in writing that it accepts such determination or that it disputes such determination (together with a brief statement of the matters disputed). Any matter or matters which are not disputed by the Company shall be deemed to be accepted and shall be binding. The PUC shall refer any disputed matter or matters to the independent consultant for findings in accordance with this section. Upon submittal of any such findings made pursuant to subsection (3), which findings shall be binding, the PUC shall issue an order which shall incorporate the independent consultant's findings.

(3) Within thirty days of any referral pursuant to subsection (2) above, an independent consultant selected in the manner provided in subsection (4) shall evaluate the Company's calculations of rate adjustments supporting any claim and any other information adduced in any proceedings before the PUC. The consultant shall prepare written findings respecting all disputed aspects of the Company's claim, based upon an application of the methodology set forth in the First Schedule and (to the extent applicable) the Third Schedule, together with a statement of the reasons therefor. The consultant's findings shall be submitted by the consultant in sealed form simultaneously to the Company and to the PUC.

(4) Within forty-five days after the commencement date, the Company and the PUC shall each submit to the other a written list of consultants internationally recognised as expert in utility rate matters, together with curriculum vitae of such consultants, who have provisionally agreed to be available to perform the responsibilities under subsection (3) if selected. Within thirty days of receiving such list, each party shall designate by written notice to the other party the consultant(s), if any, on the other party's list who are acceptable to the notifying party. Upon referral of any matter for resolution by the independent consultant, the PUC and the Company shall select a single consultant at random from among the consultants designated by the parties as acceptable; provided that if no such consultant has been designated as acceptable or is available to serve, or is otherwise agreed to by the parties within an additional seven days, then either party may request the President from time to time of the Electricity Supply Industry Arbitration

Association of England and Wales to appoint such consultant, and such appointment shall be final and binding on the parties. The Company shall be responsible for payment of fifty per cent and the PUC shall be responsible for payment of fifty per cent of such consultant's reasonable fees. If the consultant resigns, his or her engagement is terminated by the parties or the consultant otherwise becomes unavailable, then the procedure described in this paragraph shall be followed in selecting a successor unless a different procedure for selecting a consultant is agreed by the Company and the PUC.

(5) If on the date which is thirty days after the date on which the Company files a claim pursuant to subsection (1), the PUC shall not have issued any order or decision granting or denying such claim, the rates requested by the Company shall thereupon become effective as temporary rates pending the final determination by the PUC of the statutory rates. Upon any such final determination, the Company shall refund to consumers, or may recover from consumers, as the case may be, the difference between the gross income actually received by the Company during the period when the temporary rates were in effect, and the gross income which would have been received by the Company during the same period if the statutory rates had been as finally determined, in any manner and over such period as may be prescribed by the Company and reasonably approved by the PUC, with interest at the rate of four per cent per annum:

Provided, that if on the date which is one hundred twenty days from the date on which the Company files a claim pursuant to subsection (1), the PUC shall not have issued any order or decision granting or denying such claim, the rates requested by the Company shall thereupon be deemed effective as final rates.

(6) At any time after the tenth year of the licence, and annually thereafter, the Company may file a claim pursuant to section 25 of the PUC Act requesting an increase in the statutory rates then in effect. The PUC shall be at liberty to accept, modify with the Company's approval, or reject the Company's claim, which determination shall be binding notwithstanding anything to the contrary in this section, and any reduction by the PUC in the rates determined by the PUC under this section 10 shall mean that the Company shall, upon the effective date of such order, be required to reduce its rates, but not below the statutory rates otherwise applicable pursuant to section 7 hereof.

11. Company may require deposit from consumer

(1) The Company may require any consumer to deposit with the Company by way of security for the payment of all monies from time to time due by such consumer to the Company a reasonable sum of money (including, in the case of monthly charges, a sum of money equivalent to the total amount of the reasonably anticipated maximum monthly charges for electricity supplied to such consumer over a two-month period (or such longer period as may be approved by the PUC) or (subject to subsection (5)) such other security for the payment of any such monies as is reasonably acceptable to the Company, within fourteen days of a notice served by the Company on the consumer respecting such security. Any sum of money deposited with the Company under this section shall be placed to the credit of a deposit account in such consumer's name in the books of the Company. The amount for the time being standing to the credit of such account shall bear interest at the rate of four per cent per annum, such interest to accrue de die in diem. The interest for the time being so accrued shall be credited to such consumer's account within thirty days of the first day of February.

(2) The Company shall be entitled to draw upon such security (including any accrued interest) for the payment of any monies due the Company which are from time to time outstanding and unpaid after the date for payment specified in any invoice by the Company to the consumer (including without limitation as provided in section 22), and the consumer shall thereupon be required to replace such security to the same extent as previously required by the Company or in such greater amount as the Company, in view of any delinquency in payment of the invoice, may reasonably require by notice to the consumer.

(3) If any consumer fails to comply with a notice served on him or her by the Company under subsection (1) or to replace the security as required by subsection (2), or such security otherwise becomes invalid or insufficient, the Company may discontinue the supply of electricity to the consumer for so long as the Company is not furnished with sufficient security by such consumer.

(4) Where the Company has discontinued the supply of electricity to a consumer under this Act, any reasonable expenses incurred by the Company consequent to the disconnection of such supply or the reconnection of such supply, shall be payable by the consumer to the Company upon demand.

(5) Where any security is required under this section, the security may be by way of a deposit or otherwise and of such amount as shall be required by the Company, unless the PUC finds in response to a complaint by the person required to provide such security that such security is unreasonable, in which event the PUC shall stipulate reasonable substitute terms for such security.

12. Metering

(1) Except in such cases as may be prescribed or where otherwise agreed between a consumer and the Company, the consumption by a consumer of electricity supplied to him or her by the Company shall be determined by means of a meter.

(2) The metering of electricity by the Company and other related matters shall be governed by the provisions of the Fifth Schedule.

13. Duty free importation of goods

(1) During the continuance of the licence, all plant, machinery, equipment, meters, instruments, vehicles, fuel, lubricants and materials (including replacement parts and spares) imported by the Company for the purpose of the Company's undertaking shall be exempt from all customs and other import duties and landing tax; provided that such exemption shall not apply to any plant, machinery, equipment, meters, instruments, vehicles, fuel, lubricants or materials (including replacement parts and spares) imported by the Company for resale or hire or for the private use of any of the Company's employees; provided further that in relation to private motor vehicles the Government may require the Company to apply for such exemption on a case by case basis if it reasonably appears to the Government that the general exemption in respect of private motor vehicles is being abused.

(2) In subsection (1) above, the term "private motor vehicles" has the meaning specified in the Road Traffic Act, Chapter 289A.

14. Income tax concession

Notwithstanding any law to the contrary, it is hereby declared that for the purpose of computing the Company's liability to income tax or any other tax based on income, all losses incurred by the Company at any time in relation to the Company's undertaking may be carried forward indefinitely for the purpose of being set off against the profits of the Company arising in any subsequent year or years.

15. Powers of the Company

(1) The Company may—

- (a) erect or fix in, on, under or over any land, any pipe, electric line or other works or apparatus used or to be used in the installation or working of the undertaking:

Provided that the Company shall first give notice in writing of its intention to the owner or occupier of any private land if the owner or occupier can

reasonably be ascertained, or (if he or she cannot be so ascertained) post up such a notice conspicuously on the land in question; and if the owner or occupier shall, within seven days from the service or posting up of such a notice, give notice in writing to the Company of his or her objection thereto, the matter shall be referred by the Company to the Minister; the Company shall not enter upon the private land in question if the Minister shall, within thirty days of being notified by the Company of any such objection as aforesaid and making such enquiry as he or she may deem necessary, so direct; provided that the Company shall not be required to supply electricity to any consumer if as a result of such inability to enter upon the premises in question, it is not economic or feasible for the Company to supply such consumer with electricity;

- (b) alter, substitute, repair or remove any such pipe, electric line, works or other apparatus when so erected or fixed as aforesaid at all times when, in the opinion of the Company, the same may be necessary or desirable.

(2) Subject to subsection (1), the Company, for the purpose of erecting, fixing, altering, substituting, repairing or removing any such pipe, electric line or other apparatus, may enter upon any land and may—

- (a) clear such land;
- (b) dig the soil and remove the surface of such land;
- (c) temporarily close or obstruct such land; and
- (d) generally do all acts and things necessary for such purpose.

16. Company may take steps to prevent interference, etc.

(1) In the course of construction or for the more effective working of the undertaking, the Company may enter upon and remove from any public or private land, any tree or any branch, bough or other part of a tree growing on such land within one hundred feet of any electric line and which may tend to interfere with, endanger or otherwise prejudicially affect the working of the undertaking; but the Company shall not, except with the consent of the owner or occupier of such land, enter upon any private land under the provisions of this section until after the expiration of seven days' notice in writing given to the owner or occupier thereof or posted up conspicuously thereon. If such owner or occupier shall, within seven days from the service or posting up of such a notice, give written notice of his or her objection thereto, the matter shall be referred by the Company to the Minister. The Company shall not enter upon the private land in question if the Minister shall, within thirty days of being notified by the Company of any such objection as aforesaid, so direct:

Provided that where any condition exists which poses a threat of damage to the Company's electrical system or any part thereof or to the property of any person or is dangerous in that it poses a threat to the safety of any person or the public generally or is interrupting or threatening to interrupt, the supply of electricity in Grenada or any part thereof, the Company may immediately enter upon any private or public land without the consent of the owner or occupier thereof and take whatever action is necessary to establish safe conditions or to ensure the continuity of the supply of electricity and in addition, may discontinue any supply of electricity to the owner or occupier until the condition is resolved. Whenever the Company takes action under the terms of this proviso the Company shall within three days inform the owner or occupier of the land in question (either by service of a written notice on him or her or by posting up conspicuously a notice on such land) of the action taken. Non-compliance with applicable standards promulgated under section 34(3) shall be *prima facie* evidence of a condition authorising the entry of the Company upon the premises owned or occupied by any person for the purposes specified in section 16(1).

(2) Except with the prior written consent of the Company, no person shall erect any building or structure in such a position or manner as may interfere with the supply of electricity through any overhead or underground electric line which belongs to the Company. If after any such overhead or underground line has been constructed, any person erects any building or structure which interferes with or which may interfere with the proper working of such line, the Company may request the owner or occupier of the building or structure in question to remove or adjust the same as may be necessary. If such owner or occupier fails to comply with such request, the Company may apply to the Minister for the removal or adjustment of the building or structure in question and, after making any such enquiry as he or she may deem necessary, the Minister may make such order as he or she deems fit; provided that the Company shall not be required to supply electricity to any consumer if the Company's request shall not be enforced by the Minister, and as a result, it is not economic or feasible for the Company to supply such consumer with electricity. Every such order may, by leave of the High Court, be enforced in the same manner as an injunction granted by the High Court.

17. Offence of obstructing the Company

A person who without due cause obstructs or attempts to obstruct the Company in the lawful performance of a power conferred on the Company by section 15 or 16(1) shall be guilty of an offence and shall be liable, on summary conviction, to a fine of three thousand dollars or to imprisonment for six months.

18. Damage caused by person lopping trees

Any person who on any private land fells, lops or trims any tree thereby causing damage to any electric line or other works or apparatus which forms part of the undertaking shall be guilty of an offence and shall, in addition to any penalty that may be imposed on him or her, be liable to pay the expenses of remedying the damage so caused:

Provided that the Company whenever reasonably requested by any owner of land so to do shall fell, lop or trim any tree on such owner's land which is threatening to damage any such electric line or other works or apparatus.

19. Abstracting electricity and related matters

(1) If any person without legal right, the proof of which shall be upon him or her, abstracts or causes to be abstracted, or diverts or causes to be diverted, any electricity, or consumes or uses any such electricity, knowing the same to have been wrongfully or unlawfully abstracted or diverted, such person shall be guilty of an offence and liable, on summary conviction, to a fine of three thousand dollars or to imprisonment for twelve months.

(2) If any person without legal right, the proof of which shall be upon him or her, wilfully disconnects, damages or removes or suffers to be disconnected, damaged or removed any electric line, meter, switch, fuse or other works or apparatus belonging to the Company, or alters the index of any meter belonging to the Company or otherwise prevents any such meter from correctly registering any quantity of electricity supplied by the Company, such person shall be guilty of an offence and for every such offence he or she shall be liable, on summary conviction, to a fine of one thousand five hundred dollars for the first offence and three thousand dollars for each subsequent offence.

(3) If, upon any premises or land there is connected to any electric line or meter any wire or device capable of wrongfully abstracting, diverting, consuming or using electricity or of preventing any meter from correctly registering any quantity of electricity supplied by the Company, the existence of such wire or device shall be accepted by a court as *prima facie* evidence that the occupant has without legal right abstracted or diverted electricity or, as the case may be, has without legal right prevented a meter from duly registering any quantity of electricity supplied by the Company.

(4) Any owner of any premises who discovers any damage to any electric line, meter, switch, fuse or other works or apparatus belonging to the Company or that any such works or apparatus or any wire or device described in subsection (3) has been disconnected, shall notify the Company of such condition. Wilful failure to notify the Company shall be an offence and shall subject such owner upon summary conviction to a fine not exceeding ten dollars for each day that such activity continues after discovery by the owner.

20. Power of entry for ascertaining quantity of electricity consumed, etc.

The Company may at all reasonable times enter upon any land or premises to which electricity is or has been supplied by the Company for the purpose of inspecting, testing, relocating, repairing, replacing or maintaining the electric lines, meters, accumulators, fittings and other works and apparatus thereon belonging to the Company, or of ascertaining the quantity of electricity consumed or supplied in or to such premises or, where a supply of electricity is no longer required or where the Company is entitled to take away and cut off the supply of electricity from any such land or premises, for the purpose of removing any electric lines, meters, accumulators, fittings, or other works or apparatus belonging to the Company:

Provided that the Company shall repair all damage caused by any such entry, inspection, maintenance or removal and provided further that should anyone wilfully or maliciously place or erect anything which impedes or hinders the easy entry, inspection, maintenance or removal by the Company of its property the Company shall be at liberty to remove the impediment or hindrance in question at the cost of the owner and/or the occupier of the land or premises in question and the Company shall not be responsible for any damage caused thereby and may also (notwithstanding any agreement or contract previously existing) discontinue any supply of electricity to any consumer occupying such land or premises for such period plus one month as such impediment or hindrance continues to exist.

21. Electric line, etc., not distrainable

Where any electric lines, meters, accumulators, fittings, or other works or apparatus belonging to the Company are placed for the purpose of supplying or measuring electricity in or upon any land or premises not being in the possession of the Company, such electric lines, meters, accumulators, fittings or other works or apparatus shall not be subject to distress or to the landlord's remedy for rent of the land or premises where the same may be, nor shall the same be liable to be taken in execution under any process of a judicial authority, or under any proceeding in bankruptcy or insolvency.

22. Non-payment of electricity charges

(1) If a consumer shall be in arrears with any payment due by him or her to the Company, the Company shall be at liberty to discontinue the supply of electricity to such consumer until such time as such arrears together with the Company's reasonable charges for the reconnection of such consumer's electricity service shall have been paid.

(2) If upon any premises or land there is connected to any electric line or meter any wire or device capable of wrongly abstracting, diverting, consuming or using electricity or of preventing any meter from correctly registering any quantity of electricity supplied by the Company, the Company may discontinue the supply of electricity to the occupant of such premises or to any other person who without legal right, the proof of which shall be upon such person, has abstracted or caused to be abstracted, or diverted or caused to be diverted, such electricity, or has consumed or used any such electricity.

(3) If the occupier of any premises quits the premises without paying any amount due to the Company in respect of charges for electricity or any other charges the Company may refuse to furnish him or her with a supply of electricity at any other premises until he

or she pays the amount due but the Company shall not be entitled to require from the next occupier of the premises the payment of the amount due, unless that occupier has undertaken with the former occupier to pay that amount or exonerate him or her for the payment of that amount.

(4) Where the Company has discontinued the supply of electricity to any premises in consequence of any default on the part of any consumer, the Company shall be under an obligation to resume the supply of electricity before the end of the period of two working days beginning with the time when the consumer has made good the default and has paid the reasonable expenses of disconnecting and re-connecting the supply, or such longer period as is reasonable under the circumstances.

23. Company to run lines, etc., on roads without payment, etc.

It shall be lawful for the Company, subject to the Company making good to the reasonable satisfaction of the Chief Technical Officer (Works) or successor all damage occasioned thereby, to erect, place or replace pipes and electric lines along or under or over any road in Grenada without payment of any way-leave, rent, fee or other charge, to remove or repair any such pipe or electric line and, for the purpose of erecting, placing, replacing, removing or repairing the same within such road, to break up and excavate any such road.

24. Payment of compensation by Company for damage to property

(1) The Company shall pay compensation (except as otherwise provided in this Act)—

- (a) in respect of all damage to private property suffered by any person in consequence of the exercise by the Company of any of the powers conferred upon the Company by this Act; or
- (b) in respect of all damage to public property suffered by any local or other authority in consequence of the negligent exercise by the Company of any of the powers conferred upon the Company by this Act:

Provided that in the case of damage which is susceptible to repair by the Company, the Company has refused to repair or has failed within a reasonable time to repair such damage.

(2) The amount of any such compensation shall, failing agreement, be determined by arbitration in accordance with the provisions of this Act.

(3) If by reason of the presence of any post or electric line belonging to the Company which is alongside or under or over any road any person shall be injured or suffer damage to property, the Company shall save harmless and keep indemnified, in respect of such damage or injury, the person or local or other authority by whom such road is repairable.

(4) Notwithstanding subsection (1) of this section, the Company shall not be required to pay compensation in respect of damage to private property or public property in consequence of the proper exercise by the Company of any power to disconnect a consumer or to reduce the supply of electricity to any consumer provided in this Act.

25. Company may harness water

It shall be lawful for the Company, without making payment therefor, to harness water power or wind power throughout Grenada at such sites (whether on Government land or private land) as the Government, may from time to time, in accordance with the Land Acquisition Act, Chapter 159, where appropriate, reserve for public electricity supply purposes.

26. Government to acquire and transfer to Company land required by the Company

(1) The Government shall, whenever requested by the Company to do so, acquire under the provisions of the Land Acquisition Act, Chapter 159, or any other Act amending or replacing the same, any land reasonably required by the Company for the purpose of its business of generating, transmitting, distributing or supplying electricity in Grenada, and shall transfer the freehold thereof to the Company at the actual cost of acquisition. The Government shall initiate such acquisition procedures within thirty days of being requested to do so by the Company if the Government is satisfied that the Company has demonstrated that the land is reasonably required for such purpose.

(2) The Government shall, whenever requested by the Company to do so, transfer to the Company the freehold or leasehold title of any Government land reasonably required by the Company for the purpose of the Company's said business at a price equal to the value of such land on the open market or at such lesser price as the Government may in its sole discretion determine.

27. Restriction on Company selling land obtained under section 26

Where land has been acquired under the provisions of section 26 above, the Company shall not dispose of any of its interests in such land without first having offered such land to the Government in writing at a fair market value based on an appraisal by a qualified appraiser selected by both parties, whose decision shall be binding on the parties. Unless the Government shall accept such offer in writing within thirty days of receiving any such offer (or the Company shall accept a lower offer by the Government, in the Company's discretion), the Company shall be authorised to dispose of such land at a market price (whether higher or lower than the price at which such land was offered to the Government). The mortgaging or encumbering by the Company of any or all of its properties in connection with securing financing for its activities shall not constitute a disposition of land for purposes of this section.

28. Power of Government to revoke licence at expiry of thirty or fifty-five years

(1) Provided that the Government gives not less than twenty four months' prior notice in writing of revocation of the licence to the Company, the Government (acting through the Minister) shall be entitled to revoke the licence on the day thirty years from the commencement date or on the day fifty-five years from the commencement date.

(2) If pursuant to subsection (1) the Government revokes the licence, the Government shall, upon the revocation of the licence, purchase from the respective registered holders thereof at the price and in the manner described in section 29 all shares and debentures issued by the Company which are then held otherwise than by the Government or any subsidiary company or nominee of the Government.

29. Price payable on revocation of licence

(1) The Government shall pay to the respective registered holders of all debentures issued by the Company which the Government is obliged to purchase in accordance with the provisions in section 28, a purchase price equal to the amount of the principal monies secured by the debentures held by them respectively at the date of the revocation of the licence together with any prepayment penalty and all unpaid interest which has accrued up to such date on such monies.

(2) The Government shall pay to the respective registered holders of all preference shares issued by the Company, which the Government is obliged to purchase in accordance with the provisions of section 28, a purchase price equal to the aggregate amount paid up on the preference shares held by them respectively at the date of the revocation of the licence together with a sum of money equal to the amount of the arrears, if any, of any fixed cumulative dividend (if any) on the preference shares held by them

respectively (whether earned or declared or not), being calculated down to the date of revocation of the licence.

(3) If the Government revokes the licence pursuant to section 28(1) during the first forty years of the licence, the Government shall pay to the respective registered holders of all ordinary shares in the capital of the Company, which the Government is obliged to purchase in accordance with the provisions of section 28, a purchase price equal to that proportion of the aggregate of—

- (a) the net value of the Company's assets at the date of the revocation of the licence, calculated in accordance with the provisions set out in Part I of the Second Schedule to this Act, after deducting from such net value firstly all amounts secured on such date by all debentures issued by the Company and secondly the amount of all monies paid up on such date on the Company's Preference Shares; and
- (b) the value of the Company's goodwill at the date of the revocation of the licence calculated in accordance with the provisions set out in Part II of the Second Schedule to this Act,

which the aggregate amount paid up on the Ordinary shares being purchased from the registered holder thereof bears to the aggregate amount paid up on the whole of the Company's issued Ordinary share capital at the date of the revocation of the licence.

(4) If the Government revokes the licence pursuant to section 28(1) after the expiry of the first forty years of the licence, the Government shall pay to the respective registered holders of all ordinary shares in the capital of the Company, which the Government is obliged to purchase in accordance with the provisions of section 29, a purchase price equal to that proportion of the net value of the Company's assets other than goodwill at the date of the revocation of the licence (such net value being calculated in the manner and after making the deductions therefrom described in subsection (3) of this section) which the aggregate amount paid up on the Ordinary shares being purchased from the registered holder thereof bears to the aggregate amount paid up on the whole of the Company's issued Ordinary share capital at the date of the revocation of the licence.

(5) Any purchase price payable by the Government in accordance with the foregoing provisions of this Act for any shares or debentures of the Company shall be paid before the expiry of one year from the date of the revocation of the licence and shall bear interest, from such date until payment, at a rate equal to the highest rate of interest payable under any debenture issued by the Company and outstanding on such date or, if on such date no such debenture is outstanding, at the rate of seven and one-half per cent per annum.

(6) If the Government shall serve upon the Company a valid notice revoking the licence, the Company shall not thereafter, except with the previous written consent of the Government, issue any share or debenture.

(7) If any disagreement shall ever arise as to the correct amount of the purchase price to be paid by the Government to any shareholder or debenture holder of the Company in accordance with the foregoing provisions of this Act, the amount to be so paid to the shareholder or debenture holder in question shall be determined by arbitration in accordance with this Act.

30. Company to be exempt from stamp duties, etc.

The Company shall be exempt from payment of all stamp duties and all imposts, duties or taxes respecting any arbitration awards or the proceeds therefrom, other than those imposts, duties or taxes which would have been paid by the Company with respect to the subject-matter of the arbitration in the ordinary course of the Company's business.

31. Disagreement between Government and Company to be determined by arbitration

(1) Except as otherwise provided in this Act or as otherwise agreed by the Company and the Government or any consumer, as the case may be, whenever any disagreement relating to any matter touching or concerning the provisions of this Act shall arise between the Company on the one hand and the Government or any local authority, or (where expressly contemplated) any consumer on the other hand, such disagreement shall be referred to and be determined by arbitration herein provided, save that in case of a disagreement under this subsection between the Company and any consumer, such consumer may elect to bring a complaint before the PUC concerning such disagreement in lieu of referring the matter to arbitration.

(2) Any disagreement referred to in subsection (1) above or otherwise committed to arbitration by this Act may be referred to arbitration upon the serving of a notice in writing by any party to such disagreement upon the other party stating the matter required to be referred to arbitration and the arbitration shall proceed in the manner hereinafter provided and shall be governed by the provisions of this Act and the Arbitration Act, in so far as the same is not inconsistent with this Act.

32. Appointment of arbitrator

(1) When a disagreement is referred to arbitration, then unless both parties concur in the appointment of a single arbitrator each party shall within fourteen days of giving or receiving notice of arbitration under section 31 nominate and appoint an arbitrator to whom the disagreement shall be referred and shall give written notice of such appointment to the other party.

(2) The appointment of an arbitrator by the Government shall be in writing under the hand of the Cabinet Secretary; the appointment of an arbitrator by a local authority shall be in writing under the hand of the clerk of the local authority; the appointment of an arbitrator by the Company or any other corporation shall be in writing under the hand of the chairperson of the board of directors of the Company or such other corporation.

(3) Every appointment shall be delivered to the arbitrator so appointed within the period specified in subsection (2) hereof and such appointment shall be deemed a submission to arbitration by the party making the appointment.

(4) No appointment made hereunder shall be revoked by any party without the consent of the other parties.

33. Powers and duties of arbitrator

(1) An arbitrator or arbitrators appointed shall have all the powers given and the duties imposed on arbitrators by the Arbitration Act, Chapter 19.

(2) Every award made in the course of any arbitration shall be final and binding on the parties to such arbitration and the persons claiming under them respectively.

34. Minister may make regulations

(1) After notice to and consultation with the Company and after considering any representations made by the Company or by any other interested party the Minister may make regulations—

- (a) for the protection of consumers and of the public generally against personal injury or damage to property arising from the generation, supply or use of electricity based upon generally accepted standards applied to the operation of electric utilities;

- (b) to provide for enquiries to be held, in connection with any accident which is or may be attributed to an escape of electricity or to the state or conduct of any part of the undertaking;
- (c) conferring or imposing upon any sub-licensee, powers, privileges, obligations and restrictions similar to those imposed or conferred upon the Company by this Act otherwise than by sections 3, 4, 10, 13, 14, 28, 29 and 30;
- (d) imposing upon any person generating electricity for his or her own use and consumption as permitted by section 4 hereof obligations and restrictions respecting the design, construction and operation of such person's generating equipment and related equipment;
- (e) prescribing reasonable standards of performance by the Company in connection with the Company's supplying of electricity hereunder and/or insuring that the supply of electricity by the Company is regular and efficient based upon generally accepted standards applied to the operation of electric utilities;
- (f) prescribing environmental standards to be observed by the Company based upon generally accepted standards applied to the operation of electric utilities;
- (g) prescribing quality management standards based upon generally accepted standards applied to the operation of electric utilities.

Prior to promulgating any proposed regulations, the Minister shall consult with the Company in good faith concerning the impact of such regulations on the Company's operations (including the cost thereof) and the appropriateness of such regulation based upon the standards in the Act. The Minister shall furnish a copy of proposed regulations under this subsection to the Company and the PUC at least thirty days prior to the proposed effective date thereof and the Company and the PUC shall have an opportunity to comment on such regulations. Such regulations shall not come into force until the expiration of such thirty day period.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may—

- (a) make provisions requiring notice in the prescribed form to be given to the Minister, in such cases as may be specified in the regulations, of accidents and failures of supplies or transmissions of electricity;
- (b) make provisions as to the keeping, by the Company or sub-licence to supply or transmit electricity, of maps, plans and sections and as to their production (on payment, if so required, of a reasonable fee) for inspection or copying;
- (c) make provisions for relieving the Company or any sub-licensee from any obligation to supply electricity in such cases as may be prescribed;
- (d) make provisions requiring compliance with notices given by the Minister specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer, for the purpose of—
 - (i) preventing or ending a breach of regulations under this section, or
 - (ii) eliminating or reducing a risk of personal injury or damage to property or interference with its use;
- (e) provide for particular requirements of the regulations to be deemed to be complied with in the case of any electric line or electrical plant complying with specified standards or requirements;

- (f) provide for the granting of exemptions from any requirement of the regulations for such periods as may be determined by or under the regulations:

Provided, that any regulations issued pursuant to this section 34 shall not impair the rights or privileges of the Company granted under this Act.

(3) At any time and from time to time, the Company may establish requirements respecting the design, installation and operation of any installation, apparatus or works owned and/or operated by any consumer, for the purpose of protecting the Company's electrical system or any part thereof from damage or to ensure the safe and continuous supply of electricity. Unless the Government electricity inspector shall find any such requirements to be without technical justification, such requirements shall be incorporated by reference in regulations made by the Minister pursuant to subsection (1)(d) above and shall be enforced by the Government electricity inspector.

(4) The Government electricity inspector shall enforce such regulations and he or she shall have the right at all reasonable times to enter, for the purpose of inspecting or testing any electric line or any electrical apparatus or works, upon any land or premises to which electricity is supplied or upon which electricity is generated, transmitted or distributed.

(5) The Minister may make regulations prescribing fees under this Act.

35. Penalties for breach of regulations

(1) Subject to any other applicable provisions of this Act, any regulations made under section 34 may impose penalties for any failure or omission to observe or comply with any of the provisions of the same, any such penalties not to exceed two hundred and fifty dollars for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence fifty dollars for every day which the offence continues.

(2) Nothing in this subsection shall affect any liability of any such person to pay compensation in respect of any damage or injury which may have been caused by the contravention.

(3) No proceedings shall be instituted in respect of an offence under this section except by or on behalf of the Minister or the Director of Public Prosecutions.

36. Offence for Company to fail or refuse to supply electricity

(1) Subject to section 37 below, any failure or refusal by the Company to supply electricity to any consumer as provided under this Act shall be an offence and the Company shall have the liability prescribed in subsection (2) in respect of each consumer in respect of whom, upon the filing of a complaint with the PUC by such consumer, the PUC finds that the Company has wrongfully failed or refused to supply such electricity.

(2) The Company shall be subject to a fine of ten dollars for each day during which an offence under subsection (1) is continued; provided that such fine shall not exceed five hundred dollars except where the fine is imposed due to the willful refusal of the Company to supply electricity.

37. When interruption of supply of electricity not an offence

It shall not be an offence under this Act for the Company to interrupt or reduce the supply of electricity to any consumer if such interruption or reduction—

- (a) was due to an act of God, or to any other cause beyond its control which the Company took reasonable precautions and exercised due diligence to avoid;

- (b) is necessary in the Company's judgement to avoid damage to the electrical system or to the property of any consumer or to avoid a risk of injury to any person or the public generally;
- (c) is necessary in the Company's judgement to insure the continuous supply of electricity to consumers generally or to restore service to such consumers;
- (d) occurs during any maintenance, repair, removal, or other activity authorised by this Act with respect to the Company's electrical system; or
- (e) is otherwise permitted or required under this Act.

38. Restrictions impossible by Company

The Company may require any person who requires a supply of electricity pursuant to this Act to accept in respect of the supply—

- (a) any restrictions which must be imposed for the purpose of enabling the Company to comply with regulations enacted pursuant to this Act; and
- (b) any terms restricting any liability of the Company for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.

39. Government electricity inspector

(1) The Government electricity inspector shall be appointed by the Minister, shall be qualified to perform his or her duties and shall perform such duties in a competent and impartial manner as further provided in this section.

(2) The Government electricity inspector shall possess an electrical engineering degree from a qualified program of an accredited institution of higher education or have passed such tests of a professional society as shall be the equivalent of such degree, and shall be experienced in regard to electrical systems with the same or similar characteristics of the Company's electrical system.

(3) The Government electricity inspector shall determine matters referred to him or her under the Act based solely on the standards set forth in this Act and such additional electrical standards as shall be consistent therewith.

(4) In the event that the Company believes that the Government electricity inspector is not competent or impartial, and so notifies the Minister, the parties shall attempt to resolve the matter or, if it is not resolved within thirty days of any complaint by the Company, the matter shall be referred to the High Court which shall have power to remove the Government electricity inspector for cause based on the evidence adduced by the parties and the standards in this Act, and subject to any other applicable provisions of law respecting Government employees.

(5) The duties of the Government electricity inspector shall be as follows—

- (a) to inspect and test, periodically and in special cases, electric lines and electrical plant belonging to persons authorised by a licence or exemption to generate, transmit and/or distribute electricity;
- (b) to examine, periodically and in special cases, the generation, transmission and/or distribution of electricity by such persons;
- (c) to inspect and test, if and when required by any consumer, electric line or plant located on such consumer's premises, for the purpose of determining whether any requirement imposed by this Act in respect of such lines or plant or the supply of electricity through or by them has been complied with; and

(d) such other duties as may be imposed by regulations or otherwise under this Act.

(6) The Government electricity inspector shall have the right to direct the Company not to supply electricity to any installation, apparatus or works which he or she deems unsafe or which, in his or her opinion, fails to comply in any respect with such regulations or would interfere with the efficient supply of electricity by the Company.

(7) Upon the request of the Company, the Government electricity inspector shall inspect and test within three days of such request any installation, apparatus or works which the Company has reason to believe, is unsafe or fails to comply with such regulations or would interfere with the efficient supply of electricity by the Company.

40. Special agreement for supply of electricity

(1) Notwithstanding anything in section 6, 7, 8 or 9, the Company and any person who requires a supply of electricity pursuant to section 6, 8 or 9 may enter into a special agreement for such supply on such terms as may be specified in the agreement.

(2) So long as any such agreement as is mentioned in subsection (1) above is effective, the rights and liabilities of the parties to the agreement shall be those arising under the agreement, which shall govern with respect to any conflicting or inconsistent provisions of this Act.

41. Minister may give directions

(1) The Minister may, after consultation with the Company, give to any person such directions of a general character as appear to the Minister to be requisite or expedient for the purpose of—

- (a) preserving the security of buildings or installations used for, or for purposes connected with, the generation, transmission or distribution of electricity; or
- (b) mitigating the effects of any civil emergency which may occur.

(2) If it appears to the Minister to be requisite or expedient to do so for any such purpose as is mentioned in subsection (1) above, he or she may, after consultation with a person to whom this section applies, give to that person a direction requiring him or her (according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction.

(3) A person to whom this section applies shall give effect to any direction given to him or her by the Minister under this section notwithstanding any other duty imposed on him or her by or under this Act.

(4) The Minister shall lay before the legislature a copy of every direction given under this section unless he or she is of the opinion that disclosure of that direction is against the interests of national security or the commercial interests of any person.

(5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Minister has notified him or her that the Minister is of the opinion that disclosure of that thing is against the interests of national security or the commercial interests of some other person.

(6) This section applies to any licence holder and any person authorised by an exemption to generate electricity under section 5.

(7) In this section, “civil emergency” means any natural disaster or other emergency which, in the opinion of the Minister, is or may be likely to disrupt electricity supplies.

42. Company to keep accounts and records

(1) The Company shall keep proper accounts and other records in relation to its business, including separate information respecting the generation, transmission and distribution of electricity and the other principal activities of the Company showing in reasonable detail the operating results of such activity.

(2) The Company shall prepare in respect of each financial year a statement of accounts in such form as shall conform to International Accounting Standards as published by the International Accounting Standards Committee.

(3) The accounts and records of the Company required to be kept under subsection (2) shall be audited by a firm of Chartered Accountants or Certified Public Accountants.

(4) In this section, “financial year” means the period of twelve months for which the accounts of the Company are normally prepared.

43. Company to furnish PUC with statement of accounts

(1) The Company shall furnish the PUC with a copy of the statement of accounts described in section 42 as soon as such statement has been prepared by the Company’s auditors.

(2) The Company shall afford facilities for verifying any information contained in an annual return made by the Company under subsection (1), in such manner and at such times as the PUC may reasonably require, to any person authorised by the PUC in that behalf.

44. General Penalty

Any person found guilty of an offence against this Act for which no special penalty is provided by this Act shall be liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for six months.

45. Commencement

This Act comes into force on the 4th day of October, 1994.

First Schedule

ELECTRICITY SUPPLY ACT

Charges for Electricity Supplied

[Section 7.]

The rates which the Company is authorised to charge for each class of service (the “statutory rates” mentioned in section 7) shall be determined in the manner specified in this Schedule. The Company shall be entitled to prescribe and recover on a monthly basis from consumers rates for each unit of electricity sold which shall be comprised of—

- (i) the Consumption Charge component of the Non-Fuel Charge for each class of service described in Parts I and II, adjusted as provided in Part II;
- (ii) the Fuel Charge described in Part III, adjusted as provided therein and (to the extent applicable) the Third Schedule;
- (iii) any exogenous event adjustment as described and calculated in accordance with Part IV; and
- (iv) any special charges for fuel conversion as described and calculated in accordance with the Third Schedule. The practice existing immediately prior

to the commencement date of this Act of disallowing discounts on statutory rates where the consumer is in arrears on its account shall at the discretion of the Company be permitted under this Act. In addition, the Company may recover each month from any consumer the Service Charge component of the Non-Fuel Charge for each class of service. Part V sets forth the form of the tariff prescribing the rates which are actually applicable to any service class from time to time. References in this First Schedule to subsections shall be to subsections of the particular Part of this Schedule in which such references occur, unless otherwise stated.

PART I

Classes of Service

Separate Non-Fuel Charges shall be charged to consumers based on the purposes for which electricity is used (“service classes”). Such service classes may be changed from time to time by the Company with the consent of the PUC.

- A. *Domestic Service*.—Applicable to all electricity supplied to any premises used exclusively for private residential purposes.
- B. *Industrial Power Service*.—Applicable to all electricity supplied to any premises on which there are installed, for the purpose of industry, electric motors having an aggregate maximum power output rating of not less than five horsepower and not normally in use between the hours of 6 p.m. and 10 p.m.

Note.—For the purpose of the foregoing provisions of this paragraph one horsepower shall be deemed to equal three-quarters of one kilowatt.

- C. *Commercial Power Service*.—Applicable to all electricity supplied to any premises other than premises used exclusively for private residential purposes or to which the industrial power service class is applicable.
- D. *Government Service*.—Applicable to all electricity supplied to the Government or any local authority for its own use, other than electricity supplied for the purposes of street lighting. This rate shall not apply to electricity supplied for industrial or commercial purposes or for the use of any statutory corporations owned in whole or part by the Government.
- E. *Non-Governmental Organisation (NGO) Service*.—Applicable to organisations having the status of a charitable, non-profit or religious organisation as determined by the PUC; provided that non-profit organisations shall not include any agricultural or industrial cooperative or any other similar organisation using electricity for commercial or industrial purposes.

PART II

Non-Fuel Charges and Adjustments

1. Definition

Non-Fuel Charges for any class of service shall consist of—

- (i) a consumption charge, expressed in cents per unit consumed or estimated to be consumed;
- (ii) service charges.

2. Base Non-Fuel Charges

The Base Non-Fuel Charges set forth in the following table shall be applicable for the period from the commencement date to and including the thirty-first day of January, 1996 (the “Base Period”).

<i>Service Class</i>	<i>Consumption Charge</i>	<i>Service Charges</i>
A. Domestic	\$0.55 (as adjusted in accordance with the Note to this subsection 2) less the Base Fuel Charge in Part III(1))	\$4.00 per month minimum charge
B. Industrial Power	\$0.47 (as adjusted in accordance with the Note to this subsection 2) less the Base Fuel Charge in Part III(1))	\$2.00 per month for each kilowatt comprised in the maximum power output rating of all motors and appliances connected at any time during such month at the consumer's premises (for this purpose any portable appliances being deemed to be connected); \$10.00 per month minimum charge
C. Commercial Power	\$0.58 (as adjusted in accordance with the Note to this subsection 2) less the Base Fuel Charge in Part III(1))	2 cents per month for each fifty square feet of floor area
D. Governmental	$0.9 \times$ Commercial Power Rate	2 cents per month for each fifty square feet of floor area
E. Non-Governmental Organisation	Commercial Power Rate	2 cents per month for each fifty square feet of floor area
<p><i>Note.</i>—The consumption charges for service classes A, B and C above (\$0.55, \$0.47 and \$0.58, respectively) shall be net of the weighted average of the Fuel Surcharge applicable to the Company's rates prior to the commencement date, such weighted average to be determined for the eighteen month period covering the calendar month in which the commencement date occurs and the seventeen calendar months prior thereto.</p>		

3. Governmental and Non-Governmental Organisation Rates

During and after the Base Period, the Consumption Charge for the Government shall be applicable only so long as the Government is not in arrears in its payments to the Company, as provided in section 8(2) of the Act. The Consumption Charge for any Non-Governmental Organisation shall be applicable only so long as—

- (i) the particular NGO is and remains an NGO based on the definition in Part I of this Schedule,
- (ii) the NGO is not in arrears in its payments to the Company, as provided in section 8(2) of the Act, and
- (iii) the total units consumed by all NGOs in any month does not exceed two per cent of the total units consumed by all consumers in such month (the "NGO Cap"), provided that the number of units consumed by NGOs in excess of the NGO Cap, if any, shall be allocated to each NGO in proportion to its percentage share of the total units consumed by NGOs in such month, and the rate for such excess units shall be one hundred per centum of the Commercial Power Rate.

4. Annual Adjustment

(a) Subject to section 10 of the Act, the Company shall be authorised to adjust the Base Non-Fuel Charges effective the first day of February, 1996, and thereafter, to adjust the Non-Fuel Charges effective the first day of January of each successive calendar year, in the manner described in this subsection 4. The Consumption Charge for the Government and (effective commencing on the first day of February, 1996) the Consumption Charge for any NGO shall be in each case, ninety per centum of the Consumption Charge for the Commercial service class, as such Consumption Charge may be adjusted from time to time in accordance with the preceding sentence.

(b) Subject to subsection (6), commencing on the first day of February, 1996, (“n”) the Company may prescribe and recover Consumption Charges (“CC”) for each service class “c” in any calendar year “n” (“CC_{c,n}”, as further defined below), subject to the following limitations—

- (i) the weighted average of CC_{c,n}, weighted based on the percentage of the total units of electricity projected to be sold by the Company to consumers in each service class (the “Average Consumption Charge” or “ACC”), for the calendar year (“ACC_n”), shall be less than or equal to the Average Consumption Charge Cap (“CAP”) for the year (“CAP_n”) (as such terms are defined in this subsection (4)), as shown in the following formula—

$$ACC_n \leq CAP_n$$

- (ii) the change in the Consumption Charge for a particular service class from that for the prior calendar year may not be more than one hundred twenty per centum of the change in the Average Consumption Charge for all classes from the prior calendar year as shown in the following formula:

$$\frac{CC_{c,n} - CC_{c,n-1}}{CC_{c,n-1}} \leq 1.20 \times \frac{ACC_n - ACC_{n-1}}{ACC_{n-1}}$$

(c) The Average Consumption Charge (ACC) for any year “n” shall be calculated as follows—

$$ACC_n = \frac{\sum_c [CC_{c,n} \times \text{units}_{c,n}]}{\sum_c [\text{units}_{c,n}]}$$

- Where CC_{c,n} = Consumption Charge for any service class “c” for year “n”.
 Σ_c = The sum of the bracketed values for all service classes.
 units_{c,n} = Units projected to be sold to consumers in each service class c during the calendar year. The number of units projected to be sold during the calendar year shall be the number of units sold to each service class c during the prior calendar year, unless the Company, with the concurrence of the PUC, shall adjust such projections to take account of anticipated changes in the consumption levels of any particular service class from the levels for the prior calendar year.

(d) The Average Consumption Charge Cap for any year “n” (CAP_n), shall be the CAP for the prior year, “CAP_{n-1}”, adjusted by the per centage change in the Reference Price Index (RPI) (as RPI is defined in subsection 5) which is projected for November of the calendar year “n” in which the adjustment is made (RPI_n), from RPI for November of the preceding year for which rates are being calculated (RPI_{n-1}), less two per cent, calculated as follows—

$$CAP_n = CAP_{n-1} \times [1.0 + \frac{(RPI_n - RPI_{n-1})}{(RPI_{n-1})} - 0.02]$$

Provided, that for purposes of the initial adjustment of Non-Fuel Charges following the Base Period “o”, CAP_o shall be defined as equal to ACC_o, where ACC_o is calculated in the same manner as the calculation of ACC_n described in this subsection (4), except that for purposes of such calculation of ACC_o, CC_o for service classes D. and E. (“CC_{D,o}” and “CC_{E,o}”, respectively) shall be deemed to be equal to the CC for service class C (“CC_{C,o}”).

(e) The projected change in RPI for year “n” defined as (RPI_n - RPI_{n-1})/RPI_{n-1}, shall be equal to the change in RPI for the previous year “n-1” defined as (RPI_{n-1} - RPI_{n-2})/RPI_{n-2}, unless the Company and the PUC agree on a projected value for RPI_n which shall then be used in the calculation of CAP_n.

5. Reference Price Index

The Reference Price Index (RPI) shall be calculated based on the Consumer Price Index (“CPI”) prepared by the Central Statistical Office of the Government or any successor office thereof for each month in accordance with international standards for the preparation of indexes and published and available monthly. To determine RPI, the CPI shall be adjusted so as to be neutral with respect to the impact of changes in the cost of diesel or other fuel supplied for use by the Company’s generators and in the cost of electricity. In the event that the CPI is no longer published by the Government, or there is any material change in the composition of, or the methodology for calculating the CPI from that in effect on the commencement date, the Government and the Company shall agree upon a substitute price index or methodology; provided that if an annual adjustment would otherwise be made but there has been no agreement on a substitute price index or methodology, such annual adjustment (as defined in the preceding paragraph) shall be the greater of—

- (i) the annual adjustment for the prior year, or
- (ii) the average annual adjustment for the preceding three calendar years for which RPI was determined in accordance with this paragraph.

The Government shall provide the Company with at least ninety days prior notice of any proposed change in the composition of the CPI, together with a description of any substitute index or methodology which it proposes to use, and the Company shall have a reasonable opportunity to comment on such methodology prior to adoption. In the event that the Government and the Company shall fail after ninety days to agree to a replacement measure of CPI and RPI, the matter shall be referred to arbitration in accordance with the Act.

6. Non-Fuel Charges for Carriacou and Petit Martinique

Prior to the first day of February, 1996, the Company may increase Consumption Charges and Service Charges for Carriacou and Petit Martinique up to the levels of the Base Non-Fuel Charges in subsection 2 based upon improvements in electric service. The Company shall file with the PUC a claim for a phased-in increase in Non-Fuel Charges under this provision at the time and in the manner provided in section 10 of the Act, at least forty-five days prior to the date when such increase is to become effective, and the PUC shall approve such increase unless the Company has failed to commence and continue to implement with reasonable diligence, measures to increase the reliability of retail electric service to approximately the same level as for consumers on the island of Grenada by the first of January, 1996.

7. Annual Reconciliation

The adjustment of the Base Non-Fuel Charges pursuant to subsection 2 is based on a projection of RPI and of units sold to consumers in each service class for the preceding year rather than based on actual RPI and actual units sold to consumers in each service class for the year in which the Non-Fuel Charges are charged. Following the end of any calendar year, the adjusted Non-Fuel Charges for such year shall be re-calculated in the manner described in subsection 2 based on the actual changes in the Consumption Charge and the Reference Price Index for the year just ended (as defined in subsection 2) for the period from December of the preceding year to December of the year just concluded. Such re-calculation shall be performed by the Company at the same time as the calculation of the adjusted Non-Fuel Charges for the current year, as provided in subsection 2. The difference between the actual rates for electricity charged to consumers during the year just concluded, and the rates which the Company would have charged to consumers in each class at the re-calculated Non-Fuel Charges, based on the actual units of electricity sold to consumers in each service class, shall be deemed the “reconciliation amount.” The reconciliation amount shall be refunded or charged (as the case may be) to consumers in each rate class, rateably over the next succeeding three months unless the reconciliation amount is five per cent or more of the average monthly bill for the year, in

which case the reconciliation amount shall be recovered rateably over the succeeding six months.

PART III

Fuel Charge and Adjustments

The Fuel Charge shall be payable monthly by each consumer as part of the applicable statutory rate for electricity and shall be adjusted to reflect monthly increases or decreases in the Company's actual cost of fuel, as described in this Part III.

1. Base Fuel Charge

The Base Fuel Charge (BFC) in cents per units generated will be equal to the Base Fuel Price (BFP) in cents per imperial gallon of fuel times the Base Fuel Use Rate (BFUR), expressed in imperial gallons per unit generated or—

$$\text{BFC (dollars/unit)} = \text{BFP (dollars/gallon)} \times \text{BFUR (gallon/unit)}$$

Where: BFP = The average cost per imperial gallon of fuel purchased by the Company during the 18 months preceding the commencement date, in dollars per imperial gallon, including all direct costs of transportation and handling, storage, fuel treatment, taxes and import duties.

BFUR = The fuel used to produce one unit in gallons/unit, measured as the amount of fuel delivered to the Company's generation equipment for use during the 18 months preceding the commencement date, divided by the total units generated during the 18 months preceding the commencement date (as measured at the bus).

2. Calculation of Fuel Charges

The Fuel Charge for any month in which the commencement date occurs shall be calculated based on changes in the Company's actual cost of fuel, in the manner described in this subsection but subject to adjustment in accordance with the Third Schedule in the event of any fuel conversion (as defined therein). For each month j , the unadjusted Fuel Charge (FC'_j) is the product of the Fuel Price for the month immediately prior to the month being calculated (FP_j) and the Base Fuel Usage Rate, less the value of the Fuel Efficiency Savings passed through to the ratepayer for the month (FES_j), or—

$$FC'_j = (FP_j \times BFUR) - FES_j$$

where: FP_j = The average cost per imperial gallon of fuel purchased by the Company during the month, in dollars per imperial gallon, including all direct costs of transportation and handling, storage, fuel treatment, taxes and import duties.

FES_j = The value of the Fuel Efficiency Savings passed through to the ratepayer for month j

$$= FP_j \times [BFUR - FUR_j] \times 0.1$$

where: FUR_j = The Fuel Use Rate for month j defined as the fuel used to produce one unit (gallon/unit), measured as the amount of fuel delivered to the Company's generation equipment for use during the month, divided by the total units generated during the month (as measured at the bus), subject to the following two limitations—

(a) the Fuel Use Rate in any period (FUR_j) shall be deemed to be equal to BFUR, if as a result of the above calculation, FUR_j is greater than BFUR.

(b) the Fuel Use Rate in any period (FUR_j) shall be deemed to be equal to the product of 1.01 multiplied by the previous month's Fuel Use Rate FUR_{j-1} , if as the result of the above calculations, it would have been greater than such product.

The final adjusted Fuel Charge for the period shall be the rolling average of the prior three

months, or—

$$\frac{FC_j = FC'_j + FC'_{j-1} + FC'_{j-2}}{3}$$

Notes.—(1) For any month FC'_{j-1} or $+ FC'_{j-2}$ which precedes the commencement date, FC' shall be equal to the Base Fuel Charge.

- (2) The formula in subsection 2 above means that the consumer shares ten per cent of the gains in fuel efficiency and that the Company retains ninety per cent of such gains. This is separate from the effects of any changes in the price of fuel.

PART IV

Exogenous Cost Adjustment

Commencing on the commencement date, the Company's rates may be increased or decreased, as the case may be, based on certain classes of events ("exogenous events") which result in changes in the Company's capital or operating costs or expenses, in the manner and to the extent set forth in this Part IV. The amount of any such change ("exogenous cost") shall be determined in accordance with this Part IV.

1. Definition of Exogenous Event

The following shall constitute exogenous events—

(a) "Change of Law" shall include—

- (i) after the commencement date, subject to subsection 3(b), the enactment of any laws, regulations or decrees by any governmental authority, including without limitation any business levy or debt service levy or income, withholding, V.A.T., excise, employment, property, customs, stamp, foreign exchange, sales, gross receipts and use (or consumption) imposts, duties or taxes, hereinafter collectively referred to as "Taxes") or
- (ii) the amendment, modification, or repeal by any governmental authority of any laws, regulations or decrees (including any change in interpretation or enforcement by any governmental authority of any such laws, regulations or decrees) in operation on the commencement date, including any Taxes, which laws, regulations or decrees pertain to, or affect, the Company's undertaking.

(b) "Change in Permissions" shall include after the commencement date—

- (i) the termination, withdrawal, rescission, amendment, conditioning or impairment of any existing Permission (as defined below), or
- (ii) the inability to obtain (without conditions imposing restrictions or economic burdens on the Company except those which are within the normal ambit of Company operations) any extension of any existing Permission or any new Permission for which application has been duly made by or on behalf of the Company in accordance with law.

The term, "Permission" shall include title to any land or personal property of, or used by the Company in its activities and any approvals, consents, registrations, exemptions or other governmental permissions or approvals pertaining to the Company's undertaking or the acquisition, holding or sale of, or exercise of rights under, preferred or ordinary shares in the Company or the holding or exercise of rights under debentures issued by the Company.

(c) "Change in Circumstances" shall include any Natural Event, any Political Event and any Environmental Event—

- (i) “Natural Event” shall mean fire, earthquake, unusual flood, volcanic activity, storm, hurricane, lightning, tide (other than normal tides), tsunamis, perils of the sea, accidents to harbors, docks, canals, or other facilities which are adjuncts of shipping or navigation, epidemic, quarantine, or any other event, matter or thing, wherever occurring, which shall not be within the reasonable control of the Company.
- (ii) “Political Event” shall include breach by any public body of any of the provisions of the Electricity Supply Act, any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, revolution, embargo, insurrection, riot, public disorder, act of terrorism, or sabotage; labor disturbances or disruptions not caused by the Company, including strikes or work stoppages which are either widespread, nationwide or of a political nature; expropriation, compulsory requisition, closing of harbors, docks, canals or other facilities which are adjuncts of shipping or navigation, and any other event of a political nature which shall not be caused by the Company.

2. Determination of Exogenous Event Adjustment

Upon concluding that an exogenous event has occurred, the Company or the PUC may seek an adjustment of the Company’s rates based on the procedure contemplated in this subsection 2., and the Company’s rates shall thereupon be adjusted if and to the extent that the requirements of this Part IV are satisfied.

(a) If the Company seeks a rate adjustment in order to recover funds expended or to be expended and costs incurred or to be incurred as a result of an exogenous event (an “exogenous cost”), it shall initiate a claim as contemplated by section 10 of the Act. Any claim by the Company shall include—

- (1) a description of the exogenous event, including the time of its occurrence, and its duration and impact on the Company’s operations;
- (2) the amount and timing of the financial impact of such cost on the Company’s net after-tax cash flow with regard to each category of expenditures, such as capital, operating and maintenance, management and administrative or tax expenditures, and the nature and amount of any liabilities; and
- (3) the Company’s proposed adjustment of rates which, in the Company’s judgement, would enable the Company to recover the amount of the exogenous costs or expenses, taking into account the timing of such costs and the terms of any financing pertaining to such exogenous costs (the “exogenous event adjustment”).

(b) If the PUC proposes to reduce the Company’s rates to account for expenses or costs saved as the result of an exogenous cost on its own motion or at the instance of the Minister, then it shall provide notice to the Company thereof in the form provided in this section, prior to commencement of any proceedings. Such notice shall contain the information in paragraph (a), items (1) and (2) respecting such exogenous event adjustment, to the extent that such information is known to the PUC.

(c) In the case of increases or decreases in future costs or expenses, the extent or amount of which cannot be presently determined with reasonable accuracy, the related exogenous event adjustment shall be sought by the Company or the PUC, as the case may be, at such time as the extent or amount of such adjustment can be determined with reasonable accuracy (whether based on projections of increases or decreases in costs or expenses or on actual payments made or costs saved or expenses saved or incurred). Any exogenous cost adjustment shall require that there be reasonable evidence regarding the matters described in paragraph (a), items (1)-(3), taking into account evidence provided by the Company to the PUC.

(d) The amount of any adjustment for exogenous costs shall be determined so as to maintain the Company's net after-tax cash flow at the same level as it would have been, had the exogenous cost not been incurred. Any such determination shall be based on international accounting standards used in preparing statements of accounts under section 42 of the Act.

3. Implementation of Adjustment

(a) Any adjustment in the Company's rates shall take into account the timing of the financial impacts of any exogenous event, including the timing and amount of debt service for financing of any exogenous costs. The portion of any such adjustment which is made in any month shall be allocated pro rata to the total number of units of electricity sold during such month and charged or rebated to each consumer, as the case may be, whether as part of the Non-Fuel Charge which is otherwise payable by such consumer for a particular class of service or as a separate charge or rebate. Any adjustment which exceeds ten per cent of the Non-Fuel Charge which would otherwise be payable for any service class in such month (excluding the subject exogenous event adjustment), shall be deferred and charged to such consumer's account based on such consumer's total electric consumption in such month and recovered or rebated thereafter in any month subject to the ten per cent limitation described above; provided the Company may request and the PUC shall reasonably approve an adjustment in excess of such ten per cent amount. Government may elect to pay to the Company directly an amount corresponding to all or part of any exogenous event adjustment for an exogenous cost, in which case subsection (c) below shall apply.

(b) The Company shall be entitled to an exogenous cost recovery in the event that—

- (i) the business levy applicable to the Company under current Grenadian law has not been replaced with a corporate income tax pursuant to which the Company would pay a maximum thirty-five per cent (35%) tax on net profits earned during calendar year 1994 and a maximum thirty per cent (30%) tax on net profits earned during calendar year 1995, or
- (ii) the Company is not exempt from all obligation and liability with respect to V.A.T. that otherwise would be applicable under Grenadian law to the Company's imports of equipment, spare parts, vehicles and fuel used in connection with the Company's electrical system, such exogenous cost recovery to be of such amount, and to be recovered as and at such times, as required to yield after-tax cash flow in any calendar year which is consistent with the anticipated after-tax cash flow that would have been realised with regard to the assumed tax treatment in clauses (i) and (ii) of this subsection (b).

Any adjustment in this subsection shall be subject to adjustment in the event of any subsequent Change of Law affecting the tax treatment which is assumed in this subsection.

(c) Any exogenous cost adjustment resulting in an increase in the Company's rates which is otherwise provided for herein shall be reduced, or if already received by the Company, shall be rebated to consumers, as and to the extent that amounts are received by the Company in respect of the same costs and expenses as comprise all or part of the exogenous cost adjustment, in the form either of payments by Government to the Company or proceeds, of third-party insurance, net of the Company's costs of collection of such insurance. If it shall be established that the Company failed to maintain in effect insurance policies with similar coverage and policy limits as the coverage and policy limits in the insurance policies maintained by the Company in the year preceding the commencement date, which policies were commercially available at commercially reasonable rates, the Company shall be deemed to have received insurance proceeds for purposes of this sentence to the extent such proceeds would be reasonably likely to be

recovered from a commercial insurer under any such policy, net of the Company's costs of collection of such insurance.

(d) Any exogenous event adjustment authorised as provided herein shall be subject to further adjustment in the event of any change in the basis for such adjustment due to any subsequent exogenous event or otherwise. If more than one exogenous event adjustment shall be sought at any time, whether by the Company or the PUC, the relevant adjustment shall be determined by offsetting increases against decreases, provided that they have a like effect on the Company's cash flow, and taking into account the timing of such increases or decreases.

PART V

Form of Tariff

The Company shall post and keep on file with the PUC at all times a current tariff showing for each service class, the Consumption Charge, Service Charges and Fuel Charge applicable from time-to-time. A separate tariff shall be maintained for Carriacou and Petit Martinique, until such tariffs are increased to the same levels as are set forth in Part II(2) in accordance with Part II(6)—

<i>Service Class</i>	<i>Consumption Charge</i>	<i>Fuel Charge</i>	<i>Exogenous Charges</i>	<i>Statutory Rate (excluding Service Charges)</i>	<i>Service Charges</i>
A. Domestic					
B. Industrial Power					
C. Commercial Power					
D. Governmental					
E. Non-Governmental					

Second Schedule

ELECTRICITY SUPPLY ACT

PART I

The net value of the Company's assets shall be deemed for the purpose of section 29 to equal the aggregate amount of—

- (a) the value in the open market of the Company's assets (other than goodwill and fixed assets);
- (b) the value in the open market of all land of whatever tenure of the Company as if such land were unencumbered with any such buildings, plant, works and fixtures as may be erected thereon or affixed thereto; and
- (c) the replacement cost on site of the Company's fixed assets (excluding land but including any such buildings, plant, works and fixtures as may be erected on or affixed to such land and including also the fixed assets described in Part III of this Schedule),

after deducting from such aggregate amount, firstly, depreciation calculated on the replacement cost (including customs and import duties) of each such fixed asset (such depreciation to be reckoned in the case of each such fixed asset from the date when the fixed asset in question was acquired by the Company to the date of the revocation of the Licence at the appropriate rate specified in Part III, or, in the case of any fixed asset not described in Part III, at a reasonable rate, provided that in respect of any fixed asset which is not reasonably suitable for its purpose by reason of obsolescence, lack of repair or other

cause the amount of depreciation to be deducted shall equal the difference between the replacement cost of the asset in question and its value in the open market) and, secondly, the amount of the Company's debts and other liabilities arising otherwise than in respect of any debentures or preference shares issued by the Company.

PART II

The value of the Company's goodwill shall be deemed for the purpose of section 29 to equal the aggregate of the Company's net trading profits (as certified by the Company's auditors) during the five completed financial years of the Company next preceding the revocation of the Licence (such net trading profits being computed before charging or crediting income tax or similar tax based on income and before making any loan redemption provision or other appropriation of profits but after making all other deductions including payment of interest on indebtedness and provisions for depreciation at the appropriate rates specified in Part III of this Schedule) after deducting from the aggregate amount of such profits the aggregate amount of all customs and import duties (excluding customs and import duties on fuel) which the Company would, but for the provision of section 13, have had to pay during the aforementioned five completed financial years of the Company; provided, that if the Company, after the commencement date, has completed less than five financial years, the average of the Company's net trading profits and customs and import duties during the financial years which have been completed shall be multiplied by the number, 5-n, where n is the number of completed financial years, and added to the sum of the net trading profits for the completed financial years.

PART III

Rates of Depreciation

	Per Annum
Buildings—Permanent	2%
Temporary	5%
Fencing	5%
Wooden Jetties	5%
Furniture and Office Equipment	5%
Oil Storage Tanks, Pipelines and Equipment	3%
Diesel Engines	4%
Alternators, switchboard, switchgear and transformers	4%
Transmission and Distribution Lines	2½%
Meters	2½%
Instruments	5%
Refrigeration plant	4%
Land clearance equipment	10%
Vehicles	10%
Motor Launches	5%
Bicycles	10%
Hydro-electric turbines and control gear	4%
Dams, intake works and water conduits	2%

Third Schedule

ELECTRICITY SUPPLY ACT

Fuel Conversion Charges

1. In the event that, pursuant to this subsection (1), the Company undertakes measures necessary for it to utilise heavy fuel oil (in other words, Bunker C or similar fuel) in its electric generation activities (“fuel conversion”), the Company shall be entitled to recover by adjustment of the Base Non-Fuel Charges and/or the Non-Fuel Charges for a particular year or years, all costs and related expenses incurred by the Company as the result of such fuel conversion (“fuel conversion costs”). Such costs and expenses shall include the costs of purchasing and installing additional equipment and of undertaking modifications or replacement of the Company’s electric plant, including without limitation allocated administrative overhead, direct and indirect labor costs, costs of services provided by third parties, and costs and expenses pertaining to financing, operation, ownership or lease of such facilities, and any other related costs and expenses, provided that such fuel conversion costs shall only include incremental costs and expenses without which the Company would not have been able to utilise heavy fuel oil.

2. The Company may propose that the Company undertake the fuel conversion referenced in subsection 1 by notice in writing to the Minister. Upon receipt of such notice, the parties shall undertake to commission a study by an independent third party consultant acceptable to both the Company and the Minister, the cost of which shall be shared equally by the parties, and which shall analyse the financial, operational and environmental impacts of such fuel conversion as they relate to the determination in subsection 3. In preparing such study, the consultant shall review all information submitted by either party and any other information deemed relevant by such consultant, provided that all such information relied on by the consultant shall be made available to both parties, and they shall each be given an opportunity to comment on the validity and accuracy of such information.

3. (a) The Company shall be authorised to undertake the fuel conversion provided that—

- (i) the consultant’s study concludes that the fuel conversion will result in significant economic benefits to consumers and will not adversely affect the integrity of the Company’s electric system, the quality, reliability or efficiency of electric supply by the Company, or its ability to comply with any applicable requirements of the Act or other applicable laws,
- (ii) the PUC authorises the Company to recover the costs and expenses of such fuel conversion by means of such adjustments to Non-Fuel Charges or separate charges as are reasonably requested by the Company taking into account the consultant’s study or as may otherwise be acceptable to the Company, and
- (iii) such reasonable modifications of the method for calculating [delete: “adjustments of] the Fuel Charge set forth in Part III of the First Schedule shall be made and approved by the PUC as shall preserve the economic benefit of the Fuel Charge to the Company while permitting the agreed fuel cost savings resulting from the Company’s utilisation of heavy fuel following the fuel conversion to be passed on to consumers in the form of reduced Fuel Charges, pursuant to subsection (b).

(b) In order to preserve the economic benefit of the Fuel Charge to the Company, the modified Fuel Charge calculation methodology shall take into account the existing entitlements of the Company and consumers to ninety per centum and ten per centum, respectively, of the benefit of improvements in fuel efficiency based on the method for calculating the Fuel Charge which exists on the commencement date, which entitlements shall continue to apply after the modification of the Fuel Charge to all fuel efficiency improvements other than those resulting from modifications of the Company’s electrical plant to permit the utilisation of heavy fuel whose costs are recovered by the Company as fuel conversion costs. The fuel cost savings shall be determined based on the change in the fuel consumption of the Company’s electric plant due to the modifications whose

costs are recovered by the Company as fuel conversion costs. Modifications to the Fuel Charge methodology shall provide for the amount of such savings to be fixed at the time of the fuel conversion and thereafter for one hundred per centum of such savings to be passed through to consumers:

Provided that the Company, at its option, may elect to pay for twenty per cent or any lesser per cent of the fuel conversion costs which it would otherwise be entitled to recover under this Third Schedule, and in such event the Fuel Charge methodology shall enable the Company to receive a corresponding per centum of such fuel cost savings.

4. In the event of any dispute between the PUC and the Company respecting any matter in this Third Schedule, the matter shall be referred to the independent consultant pursuant to section 10 of the Act.

Fourth Schedule

ELECTRICITY SUPPLY ACT

System Availability

Commencing with the year 1996, the system shall operate at an equivalent availability factor of ninety-seven point five per cent for the year 1996, ninety-eight per cent for the year 1997, ninety-eight point five per cent for the year 1998 and ninety-nine per cent for the year 1999 and each subsequent year. The equivalent availability factor (EAF) is defined as follows—

$$\text{EAF} = \frac{8760 - \text{EFOH}}{8760} \times 100\%$$

Where: EFOH = Equivalent Forced Outage Hours
= The equivalent number of hours during the year for which the system was not in service due to forced (unplanned) outages excluding any such outages which are due to Natural Events or Political Events as defined in Part IV hereof.

$$= \sum_i \frac{\text{Expected Demand}_i - \text{Demand Served}_i}{\text{Expected Demand}_i}$$

Where:

i = each hour or part thereof during the year for which there was a forced outage
expected demand = the average of the previous four weeks' system demand for the same hour of the day and the same day of the week of the outage (excluding holidays), in kilowatts
demand served = kilowatts of power on line during the hour of the outage

Fifth Schedule

METERING

1. (1) The supply of electricity to a consumer by the Company is to be determined by meters supplied by the Company, which meters shall be certified in accordance with section 5. Meters (other than meters in place on the commencement date) shall be fixed on the premises of a consumer on the exterior of any building or structure or other exterior location (such as a pole) designated by the Company. Meters in place on the

commencement date may be relocated by the Company in the manner provided in section 6(6) of the Act.

(2) The Company or any person authorised by it may enter upon any land or premises for the purpose of carrying out any of the requirements imposed on the Company by subsection (1), subject as provided in section 20 of the Act.

2. (1) The Company shall, at its expense, keep all meters supplied by it for the purpose of determining the consumption of electricity by any consumer in proper order for correctly registering such consumption by means of periodic inspections and testing at such intervals as the Company shall deem reasonable or as requested by any consumer pursuant to section 6 below.

(2) The Company or any person authorised by it may enter upon any land or premises for the purpose of carrying out any of the requirements imposed on the Company by subsection (1), subject as provided in section 20 of the Act.

(3) Except as otherwise provided in this Fifth Schedule or the Act, the expenses of and incidental to the removal, testing, inspection or replacement of a meter incurred by the Company in pursuance of this section shall be borne by the Company.

(4) Without prejudice to the Company's rights under any other section of this Schedule or the Act, where expenses pursuant to subsection (3) are incurred by the Company by reason of any act or omission of the consumer, the Company may recover the [reasonable] amount of such expenses from the consumer by deducting such amount from the security provided by such consumer under section 11 upon ten days' written notice to the consumer or may at its option include such expenses in its monthly invoice to the consumer provided that if the consumer shall notify the Company in writing upon receiving such notice or invoice that it disagrees that it should be liable for such amount, then the Company shall be required to obtain a civil judgement upon which to collect such debt by the means provided in this paragraph.

3. (1) A consumer shall ensure that all meters on his or her premises supplied by the Company are in proper order for correctly registering the consumption of electricity on those premises, and shall, as soon as may reasonably be practicable, notify the Company whenever a meter is damaged or appears not to be registering such consumption correctly.

(2) Where a consumer, without reasonable excuse, fails to comply with subsection (1) above in respect of any meter supplied by the Company, the Company may discontinue the supply of electricity to the consumer through the meter.

(3) If any difference arises as to the failure of consumer to comply with subsection (1), the difference shall be referred to the Government electricity inspector for determination.

4. (1) Subject to subsection (2), in addition to any meter which may be placed on the premises of a consumer to determine the consumption of electricity supplied by the Company, the Company may place on the premises such meter or other apparatus as it thinks fit for the purpose of ascertaining or regulating—

- (a) the amount of electricity supplied to the consumer;
- (b) the number of hours during which the supply is given;
- (c) the maximum power taken by the consumer; or
- (d) any other quantity or time connected with the supply.

(2) The meter or other apparatus used by the Company for any of the purposes mentioned in subsection (1) in respect of the premises of any consumer shall be supplied and maintained entirely at the expense of the Company.

5. (1) A meter shall be deemed to be duly certified under this section if it is certified by the Government electricity inspector to be a meter capable of determining the

consumption of electricity within reasonable limits of error as a standard meter approved by the Government electricity inspector pursuant to section 6.

(2) Where any alteration is made in any certified meter, the meter shall cease to be a certified meter unless it is again certified as a certified meter under this section.

(3) A person who uses a meter, other than a certified meter for determining the supply of electricity by the company shall be guilty of an offense unless he or she believes, on reasonable grounds, that the meter was certified.

(4) A person guilty of an offense under subsection (1) shall be liable, on summary conviction, to a fine of five hundred dollars.

6. Subject to the provisions of this section, the Company shall provide and maintain in proper condition such apparatus as may be prescribed or as may be approved by the Government electricity inspector for examining, testing and regulating meters used or intended to be used in connection with the supply of electricity by the Company, including sealed and certified standard test meters, and shall afford to the Government electricity inspector all necessary facilities for the use of such apparatus for the purpose of exercise and performance of his or her powers and duties under this Act in relation to such meters.

7. (1) The Company shall test the meter registering the electricity supplied to such consumer against a standard meter (which shall have been sealed and approved by the Government electricity inspector pursuant to section 6) and supply the consumer [and the Government electricity inspector] with a certificate showing the result of the test. The Government electricity inspector shall be notified of, and may (upon notice to the Company) supervise any test carried out pursuant to the provisions of this section.

(2) Any test conducted by the Company in response to consumer request shall require that the consumer first pay to the Company a fee of seventy five dollars.

(3) Subject to subsection (4), where electricity is supplied through a certified meter, the register of the meter shall be *prima facie* evidence of the quantity of electricity consumed.

(4) Where a meter is found, when tested by the Company, to register erroneously by comparison with the standard meter—

- (a) the meter shall be deemed to have registered erroneously to the degree so found since the date which falls midway between the penultimate date on which the register of the meter was last tested and the date of the test, unless it is proved to have begun to register erroneously on a later date;
- (b) the test result shall be conclusive evidence of the accuracy of the consumer's meter. If the result of the test shows that the meter is registering more than three per cent above or below the registration on the standard test meter, the Company shall replace the meter in question, and shall refund to such consumer the amount of any test fee paid by such consumer pursuant to subsection (2).

**CHAPTER 86A
ELECTRICITY SUPPLY ACT**

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
