

COMMONWEALTH OF DOMINICA

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COMMONWEALTH OF DOMINICA

ACT No. 21 OF 1996

I assent



C.A. SORHAINDO
President

15th January, 1997.

AN ACT TO RETAIN AN EXCLUSIVE LICENCE TO DOMINICA
ELECTRICITY SERVICES LIMITED FOR THE MORE EF-
FICIENT EXERCISE AND PERFORMANCE OF THE
FUNCTIONS RELATING TO THE SUPPLY OF ELECTRIC-
ITY AND FOR PURPOSES CONNECTED THEREWITH AND
TO REPEAL THE ELECTRICITY SUPPLY ACT.

(Gazetted 16th January, 1997.)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

PART I PRELIMINARY

1. This Act may be cited as the –
ELECTRICITY SUPPLY ACT 1996.

Short title.

Interpretation.

2. In this Act –

“base price” means the average contract price of US\$1.4066 per imperial gallon in the case of diesel fuel oil and of US\$1.3780 in the case of blended fuel oil, each as delivered to the company at its power stations in Dominica;

“the Company” means Dominica Electricity Services Limited and includes any person duly authorised by the Company to do any act on its behalf;

“consumer” means any person, supplied with electricity by the Company;

“current price” means the average price payable in cents per imperial gallon for diesel fuel oil or blended fuel oil delivered to the Company at any of its power stations in the calendar month immediately preceding the calendar month in which meters are read;

“debt” means the aggregate of all obligations of the Company for the payment or repayment of money having original repayment terms of one year or longer and including, without limitation, any bank debt;

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

“electric line” means any wire or conductor used or to be used for the purpose of conveying, transmitting, or distributing electricity, together with any casing, coating, covering, tube, pole, stay-wire, bracket, pipe or insulator enclosing, surrounding or supporting the same or any part thereof and any transformer, switch-gear 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 or structure required to accommodate any such transformer, switch-gear or other works or apparatus;

Act No. 27 of 1991. “Engineer” means the Engineer (Electrical) specified in the Public Service Act 1991;

“the Government Electricity Inspector” means the official for the time being who is appointed Electrical Inspector ;

“land” includes any land under whatever tenure held and any easement, servitude, right or privilege in or over land;

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

“Minister” means the Minister responsible for electricity;

“month” means calendar month;

“person” includes any body of persons, and any corporation;

“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;

“tree” includes bush or shrub;

“undertaking” means the Company’s electricity operations within Dominica;

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

PART II

LICENCE TO GENERATE ELECTRICITY

3. (1) Subject to this Act, the Company shall have a sole and exclusive licence to generate, transmit, distribute and sell electricity in Dominica until midnight on December 31 2025, with the option for the Company to renew the licence for a further period of 25 years. Grant of licence.

(2) For the avoidance of doubt, it is hereby declared that the licence granted to the Company under the Electricity Supply Act shall continue in force as from the date hereof as if granted in accordance with the provisions of this Act . Ch. 43:70.

Grant of other
licences.

4. The Minister may with the consent of the Company, such consent not to be unreasonably withheld, authorise in writing any person during the whole or any part of the period of the licence to generate electricity for their own consumption upon the terms and conditions and within the area specified in such authority.

Power to revoke
licence.

5. (1) The Minister may revoke the licence granted under section 3 on the last day of the ten years following any renewal of the licence but, no purported revocation of the licence under this subsection will be effective unless the Minister has given to the Company not less than twelve months' previous notice in writing of such revocation.

(2) Whenever pursuant to subsection (1) the Minister revokes the licence, the Government shall, upon revocation of the licence, purchase from the respective registered holders at the price and in the manner described in section 6, all shares and debentures issued by the Company which are then held otherwise than by or on behalf of the Government any statutory corporation incorporated under the laws of Dominica or any company the entire issue ordinary share capital of which is for the time being in the beneficial ownership of the Government or of any such statutory corporation.

Purchase price to be
paid by Govern-
ment on revocation
of licence.

6. (1) The Government shall pay to the respective registered holders of all debentures issued by the Company, which the Government purchases in accordance with section 5, a purchase price equal to the amount of the principal money outstanding on the revocation of debentures held by them respectively at the date of the revocation of the licence together with all unpaid interest which has accrued thereunder up to that date.

(2) The Government shall pay to the respective registered holders of all preference shares issued by the Company, which the Government purchases in accordance with section 5, a purchase price equal to the amount paid up on the preference shares held by them respectively at the date of the revocation of the licence together with the amount of any premium due on the redemption thereof, and together also with a sum of money equal to the ag-

gregate of the arrears (if any) of any fixed cumulative dividend (if any, and whether earned or declared or not) on the preference shares held by them respectively, and the proportion of the dividend on such shares (whether earned or declared or not) attributable to the proportion of the then current financial year of the Company which has expired at the date of the revocation of the licence.

(3) Where pursuant to section 5(1) the Minister revokes the licence on or prior to the last day of the first ten years following any renewal of the licence, the Government shall pay to the registered holders of all ordinary shares in the capital of the Company, which the government purchases in accordance with section 5, a purchase price equal to the fair market values of such shares as determined in accordance with section 7.

(4) Any purchase price payable by the Government in accordance with this section, for any shares or debentures of the Company shall be paid on the date of the revocation of the licence and any amount unpaid shall bear interest to be calculated from the date of revocation until payment at the rate equivalent to the allowable rate of return in force as at the date of revocation, and to be payable half-yearly.

(5) Whenever the Minister serves upon the Company a valid notice revoking the licence, the Company shall not thereafter, except with the previous written consent of the Minister, issue any share or debenture.

7. (1) Where the licence of the Company is revoked any debt holder or shareholder may, after notifying the Minister in writing, request an independent and qualified valuer to determine the fair market value of the debt or shares of the Company.

Determination of
fair market value.

(2) The valuer shall prepare and submit a report on the value of the shares or debt and submit copies of the same to the debt holder, shareholder, Company and the Minister.

(3) The expenses incurred in the determination of the fair market value of the shares or debt of the Company shall be met by the Government.

(9) Any contractor referred to in subsection (7) shall comply with the requirements of any Regulation made under this Act and any other condition which may be specified by the Company.

(10) For the purposes of this section, "Planning Authority" means the Planning Control Authority established by section 3 of the Town and Country Planning Act.

Act No. 17 of 1975.

Duty-free importation and treatment of losses.

9. (1) During the continuance of the licence, all plant, and equipment, imported by the Company for the purpose of the Company's business of generating, transmitting, distributing or supplying electricity or for the purposes of any capital project are exempt from all duties and taxes on importation or any sales tax.

(2) Notwithstanding subsection (1) the Company is liable for all duties and taxes in respect of plant and equipment imported by the Company for hire, resale or the private use of any of its employees.

Exemption from stamp duty.

10. During the continuance of the licence the Company is exempt from payment of all stamp duty including stamp duty on arbitration awards from transfer fees, company transfer fees and appreciation tax.

Acquisition of land.
Ch. 53:02.

11. The Government shall, whenever requested by the Company, acquire in accordance with the Land Acquisition Act any land reasonably required by the Company for the purpose of its business of generating, transmitting, distributing or supplying electricity and shall transfer the land to the Company at the actual cost of acquisition.

Transfer of State land.

12. The Government shall, whenever requested by the Company, transfer to the Company the freehold title of any State land reasonably required by the Company for the purpose of the Company's 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.

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13. (1) In the course of construction and for the more effective working of the undertaking, the Company may enter upon and remove from any public or private land, any tree, branch, or part of a tree growing on such land which is within one hundred feet of any electric line and which may interfere with, endanger or otherwise prejudicially affect the working of the undertaking. Company may enter lands.

(2) Notwithstanding subsection (1), the Company may not, except with the consent of the owner or occupier of any land, enter upon the land before the expiration of fifteen days' notice in writing given to the owner or occupier thereof or posted thereon in a conspicuous position.

(3) Where the owner or occupier, within seven days from the service or posting up of a notice, gives written notice of his objection to the proposed entry, the matter shall be referred by the Company to the Minister, and the Company may not enter upon the land in question unless the Minister, within fifteen days of being notified by the Company of any such objection so directs.

(4) Where any condition exists which is dangerous or is interrupting or threatens to interrupt, the supply of electricity in Dominica or any part thereof, the Company may immediately enter upon any private land without the consent of the owner or occupier and take whatever action is necessary to establish safe conditions or to ensure the continuity of the supply of electricity.

(5) Where the Company takes action under subsection (4) 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 by posting up conspicuously a notice on such land) of the action taken.

(6) Except with the written consent of the Company, which consent shall not be unreasonably withheld and shall be free of charge, no person may erect any building or structure in such a position or manner as may interfere with the supply of electricity through any overhead electric line which belongs to the Company.

(7) Whenever any overhead 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.

(8) Where the owner or occupier fails to comply with the request, the Company may apply to the Minister for the removal or adjustment of the building or structure in question and, after making any enquiry as he deems necessary, the Minister may make such order as he deems fit.

(9) Every such order may, by leave of the High Court, be enforced in the same manner as an injunction granted by a Judge of the High Court.

Power of entry for
ascertaining
electricity
consumed.

14. (1) 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 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 and the Company shall repair all damages caused by an entry, inspection, maintenance or removal.

(2) Notwithstanding subsection (1), anyone who wilfully or maliciously places or erects anything which impedes or hinders the easy entry, inspection, maintenance or removal by the Company of its property the Company may remove the impediment or hindrance in question at the cost of the occupier of the land or premises in question and the Company is not liable for any damage caused thereby.

Company may run
lines, etc. on roads
without charge.

15. (1) Subject to the Company making good to the reasonable satisfaction of the Chief Technical Officer (Works), all damage occasioned thereby, the Company may erect, place or replace pipes

and electric lines along or under or over any road in Dominica 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, break, excavate and temporarily obstruct any road.

(2) Whenever the Company breaks up or excavates any road, it shall with all convenient speed complete the works for the purpose for which the road was broken up or excavated.

(3) Subject to subsection (4), where a road has been broken up or excavated, the Company shall make the same good to the reasonable satisfaction of the Chief Technical Officer (Works) and shall carry away the rubbish occasioned thereby.

(4) Until the road has been made good, the Company shall fence the road where it has been broken up or excavated and shall maintain during the hours of darkness a light sufficient to warn persons using the road of the danger constituted by the breaking up or excavation.

(5) Where a road has been broken up or excavated by the Company, the Company shall keep the same in good repair for three months after it is made good and for such further period not exceeding twelve months as the sub-soil of the road at that place continues to subside.

16. Where any electric line, meter, accumulator, fitting, or other work or apparatus belonging to the Company is placed for the purpose of supplying or measuring electricity in or upon any land or premises not being in the possession of the Company, the electrical line, meter, accumulator, fitting or other work 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 can the same be liable to be taken in execution under any process of a Court of Justice, or under any proceeding in bankruptcy or insolvency.

Property for
supplying, etc. of
electricity.

17. (1) Any person who on any private land fells, lops or trims any tree thereby causing damage to any electric line or other works

Damage to lines,
etc. and payment of
compensation.

or apparatus which forms part of the undertaking commits an offence and in addition to any penalty that may be imposed on him, is liable to pay the expenses of remedying the damage so caused.

(2) Notwithstanding subsection (1), whenever the Company is requested by any owner of land to cut, lop or trim any tree on the owner's land which is threatening to damage any electric line or other works or apparatus the Company shall do so.

Payment of
compensation.

18. (1) In the exercise of any powers conferred by this Act, the Company shall cause as little inconvenience and damage to other persons as is reasonably practicable and the Company is liable to pay compensation to any person who suffers damage to his property in consequence of the exercise of the Company's powers.

(2) The amount of compensation shall, failing agreement, be determined by arbitration.

(3) All losses or damages caused to any property through the negligence of the Company, its agents, contractors or officers shall be paid by the Company.

(4) The Company shall be answerable for all damages or injuries sustained by any person through the negligence of the Company or of any person in its employment, by reason of or in consequence of the Company's works.

(5) The Company shall save harmless and keep indemnified all persons by whom any road or street is repairable in respect of all damages or injuries referred to in subsection (4).

Company may
harness water.

19. (1) Subject to Government's approval the Company, may without making payment therefor, harness water power throughout Dominica at such sites as the Government may from time to time reserve for public electricity supply purposes and the Government shall reserve for the generation of electricity energy by hydro-electric works for public electricity supply purposes the water power rights of the Roseau and Mural rivers and their respective tributaries from their sources to a point one mile down stream from the confluence of the two rivers below the waterfalls, and no

development for any other purpose of those stretches of the above rivers or their tributaries shall be allowed.

(2) Notwithstanding subsection (1), any person may use the water power of that part of any river within the confines of his property where this has not been previously reserved for public electricity supply purposes.

PART IV

GENERATION AND SUPPLY OF ELECTRICITY AND CHARGES THEREFORE

20. (1) In this Part –

Interpretation for
Part IV.

“allowable rate of return” means the addition of the weighted average percentage cost of equity and the weighted average percentage cost of debt where –

- (a) weighting attributable to equity multiplied by the target rate of return is equal to weighted average percentage cost of equity, and
- (b) weighting attributable to debt multiplied by the average interest rate is equal to weighted average percentage cost of debt;

“average amount of equity” means the equity at the commencement of the financial year under review added to the equity at the end of such financial year divided by two;

“average debt” means, subject to subsection (2), the total debt outstanding plus any preference shares at the commencement of the financial year under review added to the debt outstanding plus any preference shares at the end of such financial year divided by two;

“average interest rate” means the total interest expense for the relevant financial year plus amortization of any guarantee fees in respect of debt or other loan charges, divided by the average debt;

“basic energy rate” means the charge per kilowatt hour, as prescribed by or calculated in accordance with this Act, billed for electricity supplied excluding the fuel surcharge;

“certificate of compliance” means a document issued by the independent firm of accountants appointed in accordance with section 35;

“certificate of non-compliance” means a document issued by the independent firm of accountants appointed in accordance with section 35;

“Certification Committee” means a committee appointed in accordance with section 32;

“deficit rate of return” means the allowable rate of return less the interim rate of return as determined in accordance with the formula prescribed in Schedule 4;

Schedule 4.

“equity” means the aggregate of –

(a) the amount paid up or credited as paid up on the share capital of the Company, excluding the amount paid up or credited as paid up, on any preference shares, and

(b) the amount standing to the credit of reserves of the Company (including without limitation any share premium account, consumer contributions, capital redemption reserve funds and any credit balance on profit and loss account) and any other sum which by standard accounting practice generally accepted in Dominica is treated as part of equity (but excluding for these purposes, the amount paid up, or credited as paid up, on any preference shares); but after deducting from such aggregate any unrealised exchange gains on debt or after adding any unrealised exchange losses on debt that may exist from time to time as at the end of the financial year in question;

“excess rate of return” means the interim rate of return as determined by the application of the formula prescribed in the Schedule 4, less the allowable rate of return;

Schedule 4.

“final rate of return” means the operating income of the Company in any financial year divided by the rate base and expressed as a percentage as calculated in accordance with Schedule 4 as certified and submitted to the Minister in accordance with section 28; Schedule 4.

“final return” means the document prepared in accordance with Schedule 4 and submitted to the Minister in accordance with section 28; Schedule 4.

“interim rate of return” means the operating income of the Company in any financial year divided by the rate base and expressed as a percentage as calculated in accordance with Schedule 4; Schedule 4.

“interim return” means the document prepared in accordance with Schedule 4 and submitted to the Minister in accordance with section 26; Schedule 4.

“Minister” means the Minister responsible for Finance;

“Review Board” means the Board appointed in accordance with section 33;

“total basic revenues” means basic energy rates for a year multiplied by the total kilowatt hour sales for that year.

(2) For the purposes of this Part, each component of average debt shall be stated at the rate of exchange at the beginning and end of each such financial year, respectively.

21. (1) Subject to section 4, during the continuance of the licence no person except the Company shall generate, transmit, distribute or sell electricity within Dominica. Exclusive right to generate electricity.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars and six months imprisonment and in addition thereto he may be ordered by any court having summary jurisdiction to dismantle his equipment at his own expense within such time

as such court may prescribe and if he fails to obey the order of the Court within the prescribed time the Court shall order the equipment to be dismantled by the Company and shall order the person to pay the Company its reasonable charges for dismantling the equipment.

Voltage of
electricity supply.

22. (1) The voltage of electricity supplied for domestic or lighting purposes shall be 240 volts and this shall be maintained by the Company within plus 4% and minus 8% (measured at the consumers' terminals) of such voltage.

(2) The frequency of electricity supplied for any purpose shall be 50 cycles per second and this shall be maintained within plus and minus 3% of such frequency.

(3) Subject to subsection (4), the system of distribution of electricity shall be 3 phase 4 wire for 415 volts between lines and 240 volts between line and neutral, single phase 3 wire for 480 volts between lines and 240 volts between lines and neutral, the neutral in each case being earthed, or single phase 2 wire for 240 volts between lines with one line earthed and designated "the neutral" all or any of such systems to be used, the choice in any particular case being by the Company according to load conditions and the most economical method of supply.

(4) A consumer may by agreement with the Company be supplied with electricity at a voltage in excess of 480 volts and step this down in his own transformers to any voltage for the time being approved by the Government Electrical Inspector.

Maintenance of
adequate generated
capacity.

23. (1) The Company shall use reasonable efforts to ensure that sufficient firm generating capacity is maintained in order that peak demand may be met, assuming that the largest single thermal generating unit is unavailable for generating electricity and operations of the hydro-electric system are restricted to firm power criterion. This constraint may be varied by agreement between the Company and the Government in the event that a higher level of reliable supply is determined than the estimation of firm generating capacity dictates.

(2) For the purposes of this section, "peak demand" means the highest demand for electrical energy in any continuous half-hour period in any given year.

24. (1) Subject to this section, the Company shall as from the date of entry into force of this Act charge for electricity supplied in accordance with the rates prescribed in Schedule 1 as varied from time to time in accordance with the provisions of this Act .

Charge for
electricity supply.
Schedule 1.

(2) Notwithstanding subsection (1) the Company may levy a fuel cost adjustment in accordance with Schedule 2.

Schedule 2.

25. The Company's allowable rate of return etc. and target shall be calculated in accordance with Parts A and B of Schedule 3.

Allowable rate of
return, etc.
Schedule 3.

26. (1) Subject to subsection (8), within twenty-eight days after the end of each of its financial years, the Company shall submit to the Minister an interim return in the form prescribed in Schedule

Interim return and
rate adjustment.
Schedule 4.

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(a) containing the relevant information in relation to the operations of the Company during the particular year; and

(b) stating that the interim rate of return for that year was calculated in accordance with Schedule 4 ,

Schedule 4.

together with the Company's unaudited internal management accounts for the financial year with respect to which the interim return is made.

(2) Where the interim return is not submitted to the Minister within the time specified in subsection (1), or if the Company, before the interim return is submitted, demands payment for electricity supplied for any purpose in the then current financial year, the Company shall charge for electricity supplied at the basic energy rate in force at the end of the financial year immediately preceding the then current financial year.

(3) Where the interim rate of return for any financial year exceeds that permitted under the allowable rate of return calculated

Schedule 3. in accordance with Part A of Schedule 3 then in respect of that financial year, the Company shall, in respect of the month in which the relevant interim return is submitted and in respect of subsequent months, decrease the basic energy rate as prescribed in Part A of Schedule 3 in respect of each kilowatt hour consumed; but any such decrease is independent of any adjustment with respect to fuel cost made in accordance with the Schedule 2.

Schedule 3.

Schedule 2.

(4) Where the interim rate of return for any financial year is less than the allowable rate of return calculated in accordance with Part A of Schedule 3 then with respect to that financial year, the Company shall in respect of the month in which the relevant interim return is submitted and in respect of subsequent months, increase the basic energy rates chargeable for each kilowatt hour consumed.

Schedule 3.

(5) Any increase referred to in subsection (4) is independent of any adjustment with respect to fuel cost made in accordance with Schedule 2.

Schedule 2.

(6) The decrease and increase in basic energy rates referred to in subsections (3) and (4) respectively shall be effected in accordance with the formulae prescribed in the Schedule 5.

Schedule 5.

(7) Any decrease under subsection (3) or increase under subsection (4) becomes effective in relation to any bill issued in respect of the month in which the relevant interim return is submitted and in respect of subsequent months.

(8) Where there is a conflict between this section and Schedule 4 the prescriptions of the Schedule 4 shall prevail.

Schedule 4.

Effect of non-submission of interim return.

27. (1) Where –

- (a) the interim return is not submitted to the Minister within the time specified in section 26 (1); or
- (b) the Company, before the interim return is submitted demands payment for electricity supplied for any purpose in the then current financial year; and

(c) the Company charges for electricity supplied at the basic energy rates in force at the end of the financial year immediately preceding the then financial year; then any decrease under section 26 (3) or increase under section 26 (4) is effective from the beginning of the then current financial year; but any such decrease or increase must be distributed and allocated equally on a monthly basis over the remaining months in the then current financial year.

28. (1) The Company shall, not later than ninety days after the end of each financial year, submit to the Minister the following: Submission of audited accounts, etc. to Minister.

(a) a full set of audited accounts for that financial year comprising a profit and loss account, balance sheet plus accompanying notes and other statements duly approved by the Company's directors and reported on by the Company's auditors;

(b) a final return in the same form as that prescribed for the interim return in Schedule 4 and which must be compiled with reference to the Company's audited accounts; and Schedule 4.

(c) a certificate of compliance or a certificate of non-compliance issued by an independent firm of accountants.

(2) A certificate of compliance or a certificate of non-compliance issued by the firm of accountants referred to in subsection (1) must state whether or not the accountants are able to certify that the final return was in compliance with the prescriptions of the Schedule 4, and in the case of a certificate of non-compliance the reasons for such non-compliance. Schedule 4.

29. (1) Where a certificate of non-compliance is delivered to the Company, the Company and an independent accountant shall each, within fourteen days of such receipt, complete and submit a separate report setting out the reasons for the issuance of the certificate. Consequence of certificate of non-compliance.

(2) The reports submitted for the purposes of subsection (1) shall be delivered to the Certification Committee within two days of their completion.

(3) Subject to subsection (4), the Certification Committee upon receipt of the reports referred to in subsection (2) shall review the reports and make a final determination, within thirty days of such receipt, as to the revised basic energy rates which rates must be implemented by the Company within fourteen days of the receipt of the determination.

(4) The basic energy rates established on the basis of the interim return shall remain in effect pending the determination on the certificate of non-compliance by the Certification Committee.

Rate adjustment.

30. (1) The basic energy rate levied by the Company with respect to each kilowatt hour consumed, independent of any adjustment made for fuel cost pursuant to the Schedule 2, shall be adjusted to reflect any differences between the interim return and the final return or, as the case may be, any basic energy rates determined under section 29(3).

Schedule 2.

(2) In the absence of any requirement for any adjustment in accordance with section 29(3), the basic energy rates chargeable by the Company pursuant to the interim return shall remain in effect.

(3) Where any adjustments are required, the adjustments become effective in relation to any bill issued by the Company after the end of the month in which the relevant final return is submitted or, as the case may be, within fourteen days of the determination by the Certification Committee.

(4) Any adjustment, if required, shall be distributed and allocated equally on a monthly basis over the remaining months in the then current financial year.

(5) Basic energy rates adjusted in accordance with sections 26 (3) and (4) and which may be further adjusted in accordance with subsection (1) shall remain in force until an adjustment is made in accordance with section 26 and this section.

31. The Minister may, after consultation with the Company with respect to the report submitted by the Review Board, by Order, amend Schedule 1.

Power of Minister to amend Schedule 1. Schedule 1.

32. (1) For the purposes of this Part there shall be a Certification Committee which shall consist of three persons whose appointments shall be made in accordance with subsection (2).

Certification Committee.

(2) The members of the Certification Committee, shall be appointed as follows:

- (a) one member by the Minister,
- (b) one member by the Company, and
- (c) the third member, who shall be the Chairman, as agreed on by the members appointed under paragraphs (a) and (b) or, in the absence of such agreement, appointed by the Caribbean Electric Utility Services Corporation.

(3) The members of the Certification Committee shall hold office for a period of two years and shall be entitled to such allowances or gratuities as determined by the Minister.

33. (1) For the purposes of this Part there shall be a Review Board which shall consist of three persons whose appointments shall be made in accordance with subsection (2).

Review Board.

(2) The members of the Review Board shall be appointed as follows:

- (a) one member by the Minister;
- (b) one member by the Company; and
- (c) the third member, who shall be the Chairman, as agreed on by the members appointed under paragraphs (a) and (b) or, in the absence of such agreement, appointed by the Caribbean Electric Utility Services Corporation.

(3) The members of the Review Board shall hold office for a period of five years and shall be entitled to such allowances or gratuities as determined by the Minister.

Review.

34. (1) The Review Board shall not more than once at the end of every five years, (the first such review taking place at the earlier of the end of the fifth year after the date upon which this Act comes into force or such earlier date which the Company or Government may require) review the basic energy rates that are calculated in accordance with this Act and charged by the Company.

(2) A review for the purposes of subsection (1) –

(a) shall determine the accuracy or otherwise of the application of the basic energy rate calculation for the five year period ending immediately prior to the commencement of the review;

(b) shall determine the fairness and suitability, extent and timing of this Part, (including without limitation reviewing whether the tariff mechanism as set out by this Act is the most appropriate method of charging); and

(c) shall commence within ninety days after the end of the last financial year of the period in respect of which the review is to be conducted.

(3) The Review Board shall complete the report referred to in subsections (1) and (2) within sixty days from the date of commencement of the review and submit that report to the Minister within fourteen days of such completion.

(4) Notwithstanding subsections (1) and (2) the Review Board shall not review or propose any change to –

(a) the adjustment of basic energy rates on an annual basis; and

(b) the Company's target rate of return that –

(i) compensates the Company's creditors under their respective loan agreements; and

- (ii) provides a market rate of return on equity sufficient to be able to attract adequate levels of financing as may be required by the Company from time to time.

35. (1) For the purposes of this Part and subject to subsection (2), the Company shall, after consultation with the Minister, appoint an independent firm of accountants, other than the Company's auditors, for the purpose of reviewing the final return prior to the submission of such returns to the Minister.

Independent accountants.

(2) The firm of accountants to be appointed under subsection (1) must be registered with the Institute of Chartered Accountants of the Caribbean.

(3) The accountants so appointed must issue to the Company a certificate of compliance or a certificate of non-compliance with Schedule 4 as required by section 28.

Schedule 4.

36. Whenever required the Company, shall enter into a contract for the supply of electricity to the Government for the Government's own use and consumption at any place in Dominica which is within 100 feet of any distributing main of the Company.

Electricity supply to Government.

37. The Government may require the Company to implement rural electrification programmes from time to time and the Company shall accede to any such requirement, on terms and conditions agreeable to both Government and the Company which shall include the provision of funds by the Government for this purpose.

Rural electrification.

38. (1) The Company may charge the Government for all electricity supplied to the Government at the rates as determined in accordance with this Act after deducting from the basic energy rate a discount at the rate of up to 10 per cent conditional upon payment for such charges being made within forty-five days of the date upon which an invoice for those charges is issued.

Charges to Government.

(2) This section does not apply to electricity supplied or to be supplied for the purposes of street lighting and domestic consumption. Electricity supplied to the Government for the purposes

of street lighting shall be charged at such rate as the Company and Government shall agree, but not so as to exceed the tariff rate set out in Schedule 1.

Schedule 1.

Street lighting.

39. (1) Subject to subsection (2), whenever required to do so, the Company shall enter into a contract to supply street lighting in any area in Dominica which is supplied with electricity by the Company.

(2) The Company shall be entitled to charge for electricity supplied for street lighting and for the hire of street lamps (and associated fittings and equipment) on the basis that, subject to the payment by the consumer of such minimum annual amount as may be agreed in writing between the consumer and the Company, the consumer will pay such monthly sum as may be agreed per street lamp of a specified type and output rating for the time being comprised in the street lighting system in question.

Company's liability
for failure to supply
electricity.

40. Where a certificate approving the supply of electricity is issued in accordance with the Regulations made under this Act to an intended consumer and the consumer pays to the Company not later than one month before the date of the expiry of the certificate any deposit or contribution as may be required by the Company and the Company fails, within one month from the date of payment, to supply electricity to such consumer and does not give to the Government Electricity Inspector a satisfactory explanation for its failure to do so, the Company is liable to pay the fee in respect of a valid certificate approving the supply of electricity.

Deposits and
contributions.

41. (1) The Company may require any consumer to deposit with the Company by way of security for sums from time to time due by the consumer to the Company for electricity supplied such sums of money as may from time to time be fixed by the Company.

(2) Any sums of money fixed under subsection (1) may not exceed the charge for an estimated two months supply of electricity and shall be placed to the credit of a deposit account in the consumer's name in the books of the Company and the deposit shall

bear interest at a rate to be determined from time to time by agreement between the Company and the Government; however the rate shall not be less than the rate under section 43 (5).

(3) The Company shall not require any monies to be paid in the form of a contribution or by way of a bond or security by an intended domestic consumer towards the cost of construction and erection of service lines to any property where the service lines do not exceed one hundred feet in length from the nearest point of connection.

(4) The Company may require a consumer or intended consumer to pay a contribution determined by the Company in accordance with this section towards the cost of the erection and construction of service lines in excess of one hundred feet in length from the nearest point of connection to his property excluding distance traversed across any road.

(5) Notwithstanding any payments made in accordance with subsection (4) and anything contained in this Act whereby a consumer lawfully erects and constructs transmission and supply lines on his property and pays a contribution in accordance with this section for the erection and construction thereof, such transmission and supply lines shall be the property of the Company which shall be responsible for their proper maintenance, repair and safe condition.

(6) Where a consumer, hereinafter referred to as the first consumer, requests transmission and supply lines to be erected and constructed, whether or not on his own property, and makes a contribution in accordance with this section towards the erection or construction thereof, the lines may be used by the Company for the purpose of supplying other consumers or intended consumers on condition that the use shall not prejudicially affect the supply of electricity to the first consumer.

(7) Every such other consumer or intended consumer so connected shall pay to the Company on demand, such sum as may be determined by the Company to be a fair and just proportion of the contribution paid by the first consumer, and the Company shall

promptly pay to the first consumer the part thereof as may be determined by the Company to be a fair and just proportion of his contribution.

Meters.

42. (1) Whenever requested by any consumer, and after payment of the meter testing fee for such service, the Company shall test the meter registering the electricity supplied to that consumer against a standard meter, and supply the consumer with a certificate showing the result of the test.

(2) Where the result of the test shows that the meter is registering more than three per cent above or below the registration of the standard meter, the Company shall replace the meter in question and refund to the consumer the fee that he was required to pay by the Company.

(3) The Government Electrical Inspector shall be entitled to require and supervise any test carried out pursuant to subsection (1) and to be supplied with a copy of the report.

(4) Where a meter through no fault of the consumer fails to record within the margin of error allowed by subsection (2), the consumption of electricity by a consumer, the Company shall, upon the written request of the consumer, examine the accounts of the consumer and from the examination compute the average monthly sum charged to that consumer over the six months immediately preceding the meter failure, or from the date of connection, whichever period is the shorter, and the Company shall charge or credit as the case may be, the account of the consumer at a rate not exceeding the average monthly charge.

Non-payment of
electricity charges.

43. (1) Subject to this section, where a consumer defaults with respect to payment due to the Company for electricity supplied, the Company may –

(a) charge such rate of interest as approved by the Minister on the amount due; and

(b) disconnect the supply of electricity to that consumer until the payment and the reconnection fee prescribed in Part B of Schedule 1 are paid.

Schedule 1.

(2) The Company may not discontinue the supply of electricity to any consumer unless –

- (a) the consumer is given not less than fifteen days previous written notice by the Company of its intention to do so; and
- (b) the consumer has not during the period of notice required under paragraph (a) paid all sums due by him to the Company.

(3) Where the Company in accordance with subsection (1) discontinues the supply of electricity to a consumer the Company shall reconnect the supply of electricity to the consumer within twenty-four hours after the arrears, reconnection fee and any required deposit have been paid to the Company.

(4) Notwithstanding subsection (3) where the day for reconnection falls on a Sunday or a public holiday, the reconnection shall be effected on the next working day thereafter.

(5) Where over a period of five successive years a consumer has not suffered disconnection of his supply of electricity for failure to pay his proper charges and there has been no significant delay in payment of those charges, the Company shall, upon written application, accompanied by his deposit receipt, by the consumer, pay to the consumer the interest which the deposit paid to the Company by the consumer would have earned over the period aforesaid if the deposit had been placed on a savings account in a commercial bank in Dominica .

(6) Any previous subsection does affect the right of the deposit to continue to bear interest in accordance with this Act and the consumer to payment thereof.

PART V

ARBITRATION

44. Part V of this Act shall not apply to any issue, cause or matter arising under Part IV of this Act.

Non-application of
Part IV.

Disputes to be determined by arbitration.

45. (1) When any disagreement relating to any matter touching or concerning anything under this Act arises between the Company on the one hand and the Government or any local authority on the other hand, the disagreement shall be determined by arbitration.

(2) Where there is a dispute between a shareholder and the Company or between a debt holder and the Company, the dispute may be determined by arbitration.

Appointment of arbitrator.

46. (1) When any disagreement is required to be determined by arbitration then, unless both parties to the disagreement concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom the disagreement shall be referred.

(2) The appointment of an arbitrator –

(a) by the Government, shall be made under the hand of the Attorney General;

(b) by a local authority, shall be made under the hand of the Clerk of the local authority ; and

(c) by the Company or debt holder shall be made under the hand of a director or other officer of the Company.

(3) Every such appointment shall be delivered to the arbitrator so appointed and shall be deemed a submission to arbitration by the party delivering the same.

(4) After any of the appointments specified in subsection (2) is made neither party to the disagreement may revoke the appointment without the consent of the other.

(5) Where after a period of fourteen days after a request in writing (in which must be stated the matter so required to be referred to arbitration) is served by one party on the other party to appoint an arbitrator and the last mentioned party fails to appoint

the arbitrator, then upon such failure the party making the request and having himself appointed an arbitrator may appoint an arbitrator to act on behalf of both parties, and the arbitrator may proceed to hear and determine the matter to which the disagreement relates and in such a case the award or determination of the single arbitrator is final.

47. (1) Where before the matter so referred is determined any arbitrator appointed by either party dies or becomes incapable of acting, the party by whom the arbitrator was appointed may nominate and appoint in writing some other person to act in his place.

Vacancy of
arbitrator.

(2) Where after a period of seven days after notice in writing from the other party for that purpose the party fails to do so, the remaining or other arbitrator shall act as sole arbitrator and his award is binding on both parties as if he had been appointed sole arbitrator by consent.

(3) Every substituted arbitrator has the same power and authorities as were vested in the former arbitrator at the time of his death or disability.

48. (1) Where two arbitrators are appointed, the arbitrators shall before they enter upon any matter referred to them nominate and appoint, by writing under their hands, an umpire to decide any matter on which they differ, or which is referred to him under this Act.

Appointment of
umpire.

(2) Where an umpire dies or becomes incapable of acting or refuses to act, the arbitrators shall forthwith after the death, or incapacity or refusal appoint another umpire in his place, and the decision of any umpire on the matters so referred to him is final.

(3) Whenever the arbitrators cannot agree upon the umpire to be appointed or substituted by them for the purpose of subsection (1) the umpire shall be appointed or substituted in writing, in the case of any disagreement to which the Government is a party, under the hand of the President for the time being of the Institution of

Electrical Engineers (of the United Kingdom) and, in the case of any disagreement to which the Government is not a party under the hand of the Registrar General and Provost Marshal.

Circumstances of single arbitrator.

49. Where a single appointed arbitrator dies or becomes incapable of acting or refuses to act before he makes his award, any disagreement referred to him shall be determined by arbitration in the same manner as if such arbitrator had not been appointed.

Refusal of arbitrator to act.

50. Where two arbitrators are appointed under section 46 and either of them, in writing, refuses or for seven days neglects to act, the other of them shall act as sole arbitrator and his award is binding on both parties as if he had been appointed sole arbitrator by consent.

Refusal to make award.

51. Where two arbitrators are appointed, and either of them refuses or neglects to act, or fails to make their award within twenty one days after the day on which the last of such arbitrators is appointed, or within any extended time as appointed for that purpose by both arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed.

Power to call for books.

52. The arbitrators, or their umpire, may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute and may examine the parties or their witnesses on oath, and administer any oath necessary for that purpose.

Arbitrator and umpire to take oath.

53. (1) Before any arbitrator or umpire enters into the consideration of any matters referred to him, he shall in the presence of a person legally authorised to administer oaths, take and subscribe the following oath:

AFFIDAVIT

I, A.B., do solemnly swear that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the Electricity Supply Act, 1996.

A.B.

Taken and subscribed in the presence of

C.D.

(2) The affidavit shall be annexed to the award when made and if any arbitrator or umpire, having made such oath, wilfully acts contrary thereto, he commits an offence.

54. All the costs of and incidental to any arbitration (which costs shall be settled by the arbitrators or the umpire to whom the disagreement in question has been referred) shall be borne by the parties in such proportions as the arbitrators or umpire determine and in arriving at their decision on costs the arbitrators or umpire shall apply the same principles as are applicable to suits heard and determined by the High Court. Costs of arbitration.

55. (1) Every arbitrator and umpire shall have power to correct in any award made by him any clerical mistake or error arising from any accidental slip or omission. Correction of slips in awards, etc.

(2) A copy of every award made in the course of any arbitration shall be certified as a true copy by the arbitrator or umpire making the award and shall be delivered by him to each of the parties to the arbitration.

56. Every award made in the course of any arbitration shall be final and binding on the parties to the arbitration and the persons claiming under them respectively. Awards to be final.

57. Every award made in the course of any arbitration may, by leave of the High Court, be enforced in the same manner as a judgement or order to the same effect, and where leave is so given, judgment may be entered in terms of the award. Enforcement of awards.

PART VI
GENERAL

Powers of
Government
Electricity
Inspector.

58. (1) The Government Electricity Inspector shall enforce any Regulations under this Act and he may at all reasonable times enter, for the purpose of inspecting or testing any electrical 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.

(2) The Government Electricity Inspector shall direct the Company not to supply electricity to any installation, apparatus or works which he deems unsafe or which, in his opinion, fails to comply in any respect with any Regulations.

(3) The Company shall require the Government Electricity Inspector to inspect and test any installation, apparatus or works which the Company has reason to believe is unsafe or fails to comply with any Regulations.

Offence of
obstructing the
company.

59. Any person who without due cause obstructs or attempts to obstruct the Company in the performance of any of the powers conferred on it by this Act commits an offence and is liable on summary conviction to a fine of one thousand dollars and six months imprisonment.

Stealing electricity.

60. If any person without legal right, the proof of which shall be upon him, 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, the person commits an offence and is liable on summary conviction to a fine of one thousand dollars and twelve months imprisonment.

Criminal liability
for damage and
prima facie
evidence thereof.

61. (1) If any person without legal right, the proof of which shall be upon him, 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 such meter from correctly registering any quantity of electricity supplied by the Company, that person commits an offence and for every offence he is liable on summary conviction to a fine of five hundred dollars for the first offence and a fine of one thousand dollars for any subsequent offence, and without prejudice to the foregoing, the Company may recover from that person the amount of any damage sustained by it and may also (notwithstanding any agreement or contract previously existing) discontinue any supply of electricity to that person.

(2) If upon any premises or land in the occupation of a consumer 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 the wire or device shall be accepted by a Court as *prima facie* evidence that the consumer 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.

62. (1) The Minister may, after consultation with the Company and a body representing consumers, make Regulations for –

Regulations.

- (a) 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;
- (b) 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;

-
- (d) the purpose of preventing or minimising radio interference or electrical interference arising from the generation, transmission, distribution or use of electricity;
 - (e) prescribing the qualifications of electrical engineers, chargemen, wiremen and contractors;
 - (f) the examination, licensing and registration of electrical engineers, chargemen, wiremen, and contractors and for the grant of certificates of competency and of registration;
 - (g) prescribing the forms of certificates of competency and registration for electrical engineers, chargemen, wiremen and contractors;
 - (h) prescribing the fees to be charged in respect of the examination of electrical engineers, chargemen, wiremen, and contractors;
 - (i) prescribing the forms of certification of inspection to be issued by electrical inspectors, the fees to be charged for inspections to be made by those inspectors and the persons by whom the fees shall be paid.

(2) In accordance with the procedure of subsection (1) Regulations may be made for carrying into effect the purposes of this Act.

Penalty for breach of Regulations.

63. Any Regulations made under section 62 may impose penalties for any failure or omission to observe or comply with the Regulations, not exceeding five thousand dollars for each offence and a further penalty not exceeding five hundred dollars for each day or part thereof on which the offence continues after a conviction.

General penalty.

64. Any person who commits an offence under this Act for which no special penalty is provided is liable on summary conviction to a fine of ten thousand dollars and one year imprisonment.

65. (1) The Electricity Supply Act is hereby repealed.

Repeal and savings.
Ch.43:70.

(2) Any rights and obligations accruing to the Company under the Electricity Supply Act prior to the date upon which this Act enters into force shall be deemed to continue under this Act save where expressly amended by the terms of this Act. Ch. 43:70.

(3) Any actions, proceedings and any like matter commenced or pending under the Electricity Supply Act shall continue under this Act as if they had been commenced under this Act. Ch. 43:70.

(4) Any Regulations made under the Electricity Supply Act shall continue in force until new Regulations are made under this Act to replace the Regulations saved by this section. Ch. 43:70.

66. The Aliens Land Holding Regulation Act shall not apply to the Company. Non-application of Aliens Landholding Regulations Act. Act No. 17 of 1995.

67. This Act shall come into operation on 1 January 1997 subject to the Transitional Provisions set out in the Schedule 6. Commencement and transitional provisions. Schedule 6.

SCHEDULE 1

(Sections 24, 31, 38 and 43).

TARIFF

PART A

Basic Energy Rates

Rates per electrical unit			\$ per unit
Domestic	from 1 - 50 units		0.513
	from 51 units upwards		0.605
Commercial			0.648

Industrial	supplied between 06:00 and 22:00	0.568
	supplied between 22:00 and 06:00	0.516
Hotels		0.568
Lighting Rate		0.648
Street lighting all units		0.645

PART B

Other Charges

Minimum monthly charges		\$ per month
	Domestic	2.50
	Lighting Rate	20.00
	Commercial	Service charges per kVA of installed capacity
		4.32
	Industrial	Service charges per kVA of installed capacity
		4.32
	Hotels	Service charges per kVA of installed capacity
		4.32
		Transfer of Service
		5.00
		Meter Testing (where meter within agreed tolerances)
		10.00
		Service Call
		5.00
		Reconnection charge
		22.00

For the purposes of this Schedule:

Lighting Rate applies to all electricity supplied solely for electric lighting purposes.

Domestic Rate applies to all electricity supplied to premises used exclusively for private residential purposes in cases where the consumer concerned had not requested in writing to be charged at the Lighting Rate.

Industrial Rate applies to all electricity supplied otherwise than for electric lighting to any premises on which there are installed for the purpose of industry, electric machinery or equipment having an aggregate maximum power rating of not less than 5kVA.

Hotel Rate applies to all electricity supplied to premises used as hotels and guest houses with a minimum number of ten rooms.

Commercial Rate applies to all electricity supplied to any premises not being used exclusively for private residential purposes and not being premises to which the Industrial or Hotel Rates are applicable in cases where the consumer concerned had not requested in writing to be charged at the Lighting Rate.

Street Lighting applies to all electricity supplied for the purposes of lighting the streets and roads mainly at night throughout the Commonwealth of Dominica.

Reconnection Fee is a fee payable for reconnection after disconnection for non payment of electricity bills. No fee is payable by a consumer whose supply was disconnected as a result of hurricane damage and who has settled all previous electricity accounts up to date.

Transfer of Service Fee is payable where a consumer requests a transfer of service from one location to another provided that the new location is within 100 feet of the nearest suitable pole. The extra material required for supply at a distance in excess of 100 feet shall be paid for separately.

Service Call Fee is payable where a service call is made and the fault proves to be in the consumer's installation.

Meter Testing is for testing a meter at the consumer's request. This charge will be refunded if the meter proves to be incorrect but will be retained if the meter proves to be correct.

“Industry” means a manufacturing, or processing industry and includes deep sea fishing and shrimping where they form part of an integrated processing operation, but does not include agriculture and tourism.

“kVA of Installed Capacity” means the aggregate of the kilovolt-ampere ratings of each individual piece of apparatus, machinery or equipment which shall be assessed on the basis of their nameplate ratings and, in the case of the following items, on the following basis:

- (i) in the case of any industrial process incandescent lamps, or any heating appliance, their kilovolt-ampere ratings shall be deemed to be equivalent to their kilowatt ratings; and
- (ii) in the case of any industrial process fluorescent lamps, their kilovolt-ampere ratings shall be deemed to be equivalent to their kilowatt ratings divided by 0.8; and
- (iii) in the case of electric motors, their kilovolt-ampere ratings shall be deemed to be equivalent to their rated horsepower.

(Sections 24, 26 and 30).

SCHEDULE 2

Fuel Surcharge Cost Adjustment

The Company shall, in addition to the charges set out in Schedule 1 be entitled to add or shall deduct a fuel surcharge per unit consumed which shall be calculated as :

$$\text{Fuel Surcharge} = \frac{A+B+C}{D}$$

Where –

A is the total number of Imperial gallons of diesel fuel used at all the Company’s generating stations in Dominica during the calendar month immediately preceding the calendar month during which meters are read multiplied by the current price in cents for diesel fuel oil delivered to the Company’s generating stations in Dominica less the base price for diesel fuel oil in cents;

B is the total number of Imperial gallons of blended fuel oil used at all the Company's generating stations in Dominica during the calendar month immediately preceding the calendar month during which meters are read multiplied by the current price for blended fuel oil delivered to the Company's generating stations in Dominica less the base price for blended fuel oil in cents;

$$\frac{+ 7(i)b = c}{2}$$

And/or

C is the total amount paid for other sources of supply than those listed in A and B (including but not limited to electricity generated by the use of geothermal means), supplied to the Company during the calendar month immediately preceding the calendar month during which meters are read less the Fuel Oil Base Equivalent where the Fuel Oil Base Equivalent is equal to the base price in cents multiplied by the units of electricity supplied during the calendar month by means of such alternative supply; and

of:

D is the total units sold in Dominica during the calendar month immediately preceding the calendar month during which meters are read.

The Fuel Oil Base Equivalent = (diesel fuel oil base price in cents multiplied by total generating capacity using diesel fuel oil as its source of fuel, divided by total thermal generating capacity) + (blended fuel oil base price in cents multiplied by total generating capacity using blended fuel oil as its source of fuel, divided by total thermal generating capacity).

$$\underline{lb} = g$$

SCHEDULE 3

(Sections 25 and 26).

PART A

Allowable Rate of Return

$$+ 8(ii)d = h$$

l consump-

Allowable Rate of Return as set out in this Act in respect of each financial year of the Company is computed as the addition of the Weighted Average Percentage Cost of Equity and the Weighted Average Percentage Cost of Debt and the Historic Return Adjustment, where :

$$= VIII$$

pany shall

(a) at beginning of year

(b) at end of year

where average allowable prepayments and deposits is calculated as

$$\frac{9(a) + 9(b)}{2} = j$$

where j may not be greater than 1.5% of AFPA and which shall

$$= IX$$

(10) Allowable cash working capital shall be calculated as:

(a) Total operating costs (11) less fuel oil costs

(b) Consumer deposits held as security against non-payment of electricity bills and where

$$= X$$

C Calculation of Rate Base

Rate Base VII+VIII+IX+X = XI

PROVIDED THAT where the Eastern Caribbean Dollar varies in value against the United States Dollar from the pegged rate as at the date of this Act of EC\$2.70=US\$1, the rate base shall be adjusted for variation in the EC\$/US\$ exchange rate between the beginning and end of the financial year for which the rate base is being calculated.

D Calculation of Actual Rate of Return

Interim/Final Rate of Return to

3 decimal places

VI divided by XI =

I certify to the best of my knowledge these particulars to be correct.

.....
Chairman or Managing Director or Company Secretary
Dominica Electricity Services Limited

Guidelines for Schedule 4

The following principles shall apply when preparing Interim and Final Returns in accordance with this Schedule:

(A) No expense shall be taken into account for the purpose of determining the Interim/Final Rate of Return for any financial year unless such expense has been reasonably and necessarily incurred in producing the operating revenues for the said year.

(B) Interest in excess of 15% on moneys borrowed is allowable as an expense, together with all interest paid on consumer deposits and any costs incurred in hedging exposure to foreign currency risk, (whether in relation to debt owed by the Company, any purchases that need to be made other than in Eastern Caribbean Dollars or otherwise).

(C) No amortization of goodwill costs will be allowed as expenses in determining operating income.

(D) The foregoing shall not be interpreted to exclude charitable donations and similar non-essential expenditures provided that such do not exceed 2% of the total operating costs defined in this Schedule as 'II'. Guarantee fees payable in connection with debt obligations arising under agreements entered into on and after the date of the coming into operation of this Act shall be excluded from the calculation of operating expenses.

(E) Fixed physical assets shall be valued at historical cost less the amount of accumulated depreciation computed at annual rates designed to depreciate fully the said assets on a straight line basis over their respective estimated useful lives.

(F) Depreciation provisions will be in accordance with generally accepted accounting principles and practices as used by the Company for accounting purposes.

(G) Where assets would in accordance with standard accounting practice be fully or partially written off as a result of hurricane damage or other acts of God, such assets shall be written off over a period of 3 years (or such longer period as the Company may at its discretion determine) commencing in the year in which the damage is suffered, and depreciation charges and corresponding reduction in rate base shall be apportioned equally over each of the years during which such assets are written off.

(Section 26).

SCHEDULE 5

PART A

DECREASE OF BASIC ENERGY RATES

Total Basic Revenues x Excess Rate of Return

Total kilowatt hour Sales
= Cents per kilowatt hour reduction

PART B

INCREASE IN BASIC ENERGY RATE

Total Basic Revenues x Deficit Rate of Return

Total kilowatt hour Sales
= Cents per kilowatt hour increase

For the purpose of this Schedule "total kilowatt hour sales" means the total kilowatt hours billed in any financial year.

(Section 67).

SCHEDULE 6

TRANSITIONAL PROVISIONS

- 1 Notwithstanding the provisions of this Act providing a mechanism to alter tariffs, the tariff increase in:
 - 1.1 1998 shall not exceed the cost of any applicable fuel surcharge plus eight percent (8%) of the previously applicable tariff (as set out in Schedule 1).
 - 1.2 1999 shall be such amount as will (after taking into account the increase that the tariff rates Schedule I represent to the 1996 tariff and taking into account the increase set in paragraph 1.1 above)

produce the same overall rate of return for the years 1997 to 1999 as if the standard mechanism set out in this Act for tariff variance had been used for each such year.

Passed in the House of Assembly this 18th day of December, 1996.

M. ALBERTHA JNO BAPTISTE
Clerk of the House of Assembly.

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Printed by the Government Printer at the Government Printery, Roseau

(Price \$10.20)

