

## **THE ELECTRICITY LAW**

### **Law 17 of 1974**

#### **FURTHER SUPPLEMENTARY LICENCE**

WHEREAS an exclusive Licence executed on the 17th day of January 1986 has been granted under the provisions of Section 6 of The Cayman Islands Electricity Law 1974 by the Government of The Cayman Islands to Caribbean Utilities Company, Ltd.; and

WHEREAS by a Supplementary Licence executed on the 16th day of October 1989 the said Licence was varied in its terms relating to liability for import duty; and

WHEREAS the parties to the said Licence now wish to vary further the terms of such Licence by way of final revision deemed necessary to resolve all and any matters which have arisen between the parties as to the proper interpretation and application of the terms of the said Licence; and

WHEREAS it has accordingly been agreed to vary the terms of the said Licence in manner hereinafter appearing.

NOW THEREFORE in consideration of the mutual covenants hereinafter contained THE PARTIES HERETO AGREE as follows:

1. In this document the following terms shall bear the meanings hereinafter ascribed:
  - A) "the Licence" shall mean the Licence executed on the 17<sup>th</sup> day of January 1986 as amended by the Supplementary Licence executed on the 16th day of October 1989;
  - B) "Government" shall mean the Government of the Cayman Islands;
  - C) "the Undertakers" shall mean Caribbean Utilities Company, Ltd.;
  - D) "reserve generating capacity" means the total installed rated capacity of all generating units less the most recent annual peak power demand as determined by the Undertakers.
2. In subclause (3) of Clause 7 the words "in each bill issued" shall be deleted and substituted with "on an aggregate basis" and at the end of subclause (3) of clause 7 of the Licence there shall be added the following:

"This decrease in total charge shall be effected by a reduction in the Undertakers tariff rates as determined by the formula below, or such other formula as may be mutually agreed from time to time. In the absence of such agreement the method applied in the previous year shall be applied. It is acknowledged that the formula currently being applied is as follows:

$$\frac{\text{TOTAL BASIC REVENUES} \times \text{EXCESS RATE OF RETURN}}{\text{TOTAL KILOWATT HOUR SALES}}$$

Where;

TOTAL BASIC REVENUES means all revenues for kilowatt hours consumed in the financial year, excluding any fuel adjustment revenues;

EXCESS RATE OF RETURN means the Rate of Return as determined by Scheduled C Part B less fifteen percent (15%); and

TOTAL KILOWATT HOUR SALES means the kilowatt hours consumed in the financial year."

3. In subclause (4) of clause 7 of the Licence the words "in any bill" shall be deleted and the words "on an aggregate basis" shall be inserted immediately preceding the words "the total charge levied" and at the end of the subclause (4) of clause 7 of the Licence there shall be added the following:

"This increase in total charge shall be effected by an increase in the Undertakers tariff rates as determined by the formula below, or such other formula as may be mutually agreed to from time to time. In the absence of such agreement the method applied in the previous year shall be applied. It is acknowledged that the formula currently being applied is as follows:

$$\frac{\text{TOTAL BASIC REVENUES} \times \text{DEFICIT RATE OF RETURN}}{\text{TOTAL KILOWATT HOUR SALES}}$$

Where;

TOTAL BASIC REVENUES means all revenues for Kilowatt hours consumed in the financial year, excluding any fuel adjustment revenues;

DEFICIT RATE OF RETURN means fifteen percent (15%) less the Rate of Return as determined by Schedule C Part B; and

TOTAL KILOWATT HOUR SALES means the kilowatt hours consumed in the financial year."

4. In subclause (10) of clause 7 of the Licence the words "Managing Director" shall be deleted and substituted by "President or Chief Executive Officer."
5. In subclause (2) of clause 8 of the Licence the word "rated" shall be added before "capacity" in line 3 and at the end of the final sentence the words "55 per centum of such annual peak power demand unless approved by Government" shall be deleted and substituted by the following:

"the rated capacity of the largest generator installed on their system plus forty percent of the most recent annual peak power demand unless expressly approved by Government. Any new generating unit shall not exceed twenty percent of annual peak power demand."

6. In subclause (b) of clause 9 of the Licence line 2 the word "proviso" shall be deleted and substituted by "subclause" and after "(a)" there shall be inserted "(ii)" and the word "to" shall be deleted and substituted by "of" and the word "sub-" shall be deleted. Further, the words "operating expenses" shall be deleted and substituted by "part of the cost of the capital asset for machinery and equipment, and as an expense for fuel, lubricating oil and transformer oil".

7. In subclause (d) of clause 9 of the Licence the following sentence shall be deleted:

"For the avoidance of doubt, it is declared that at the date of execution hereof, the generally applied rate of import duty in respect of diesel oil is CI\$0.13 per Imperial Gallon."

Further the reference to "proviso (d)" shall be amended to "subclause (d)."

8. In clause 10 the words "from Billings for Electricity Consumed" shall be deleted in all places in which those words appear. Further after the references to "paragraph 1" there shall be inserted "(a) and (b)".

9. In clause 13 an "s" shall be added to the word "term" appearing in the second last sentence.

10. Schedule A to the Licence shall be deleted and substituted with the Schedule A attached to Appendix A annexed hereto.

11. In Schedule B the wording under the sub-heading " RESIDENTIAL PROPERTIES" shall be deleted and substituted by the following:

“RESIDENTIAL HOUSES, APARTMENTS AND CONDOMINIUMS

CI\$100.00 per bedroom for residential houses.

CI\$100.00 per bedroom for condo/apartments of under 1,100 sq. ft.

CI\$500.00 for all other condos/apartments."

Under the sub-heading "COMMERCIAL PROPERTIES" in the second paragraph line 1 the words "that have been" and "for one full year" shall be deleted and substituted by "6.5%."

12. In Schedule C Part A there shall be the following amendments:

(1) Item 1 shall be deleted and substituted as follows:

“1. TOTAL REVENUE COMPRISED OF:

a. Revenue from billings for electricity consumed.  
-----

b. Revenue derived from or connected with any operating expense or asset included in items 2 through 9 below."  
-----

(2) The words "DIVIDED BETWEEN" in the heading in item 2 shall be deleted and substituted with "COMPRISED OF".

(3) After item 2 (g) there shall be added the following:

"No expense shall be taken into account for the purpose of determining the Interim Return from any financial year unless such expense has been reasonably and necessarily incurred in producing the operating revenues for the year.

No amount for interest except as allowed in item 2(f) above, or amortisation, or goodwill or franchise costs will be allowed as expenses in determining operating income.

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 of general and administration, and customer service and promotional expenses as defined in Schedule C Part A. Further, the foregoing shall not be interpreted to exclude guarantee fees payable in connection with debt obligations arising prior to the date of execution of the Further Supplementary Licence. For greater certainty, guarantee fees payable in connection with debt obligations arising on and after the date of execution of the Further Supplementary Licence shall be excluded from the calculation of operating expenses."

(4) Item 3 shall be deleted and substituted as follows:

“3. TOTAL DEPRECIATION CHARGED ON THE HISTORICAL COST OF THE UNDERTAKERS FIXED PHYSICAL ASSETS, AS CALCULATED IN ITEM 5 BELOW, PLUS LOSSES AND LESS GAINS ON DISPOSAL OF FIXED PHYSICAL ASSETS DURING THE YEAR.”

(5) The heading of item 5 shall be deleted and substituted as follows:

"FIXED PHYSICAL ASSETS AND CONSTRUCTION WORK IN PROGRESS"

Underneath such heading there shall be added:

"Fixed physical assets valued at historical cost employed by the Undertakers include electrical plant in service capable of supplying at least 80% of maximum initial installed rated capacity less the amount of total accumulated depreciation computed on historical cost at annual rates designed to fully depreciate the related assets on a straight line basis over their estimated useful lives."

Further the words "Allowable value shall be the average of (a) and (b)" shall be deleted and substituted as follows:

"The Net Fixed Physical Assets shall be the average of (a) and (b)."

The words following "No amount for interest or borrowing, amortisation, goodwill or franchise costs normally allowed will be allowed as expenses in determining operating income" shall be deleted and substituted as follows:

"Depreciation must be based on historical costs. Depreciation provisions must be in accordance with generally accepted accounting principles and practices as used by the Undertakers for financial accounting purposes."

The words following "Construction work in progress is not included in net plant" shall be deleted and substituted as follows:

"Construction work in progress (CWIP) which is still in progress at the end of the year shall be included as part of Rate Base in addition to the Net Fixed Physical Assets. The level of CWIP to be included shall be the average of (c) and (d).

(c) Beginning of year

---

(d) End of year

---

The allowable value for Rate Base purposes shall be the Net Fixed Physical Assets which is the average of (a) and (b) plus allowable CWIP which is the average of (c) and (d). No amount for interest on borrowings will be allowed in determining Rate Base."

- (6) Under item 6 in the concluding part of paragraph (1) the words "annual average of the gross fixed assets" shall be deleted and substituted by "Net Fixed Physical Assets."

Paragraph (2) following shall be deleted and substituted as follows:

“(2) All fuel used in the operation of the undertaking:

(a) Beginning of year

---

(b) End of year

---

Allowable fuel inventory shall be the average of (a) and (b), provided that such average shall not exceed the equivalent of 45 days fuel stock, calculated in accordance with the following formula:

$A \times 1 \frac{1}{2} \times B$  \$: where

A = maximum monthly fuel oil consumption during the year expressed in Imperial Gallons.

B = average price paid per Imperial Gallon for the fuel consumed for the generation of electricity under the Licence during the year.

---

For the purposes of this section fuel includes lube oil."

(7) In the heading of item 7 there shall be added the words "MADE BY THE UNDERTAKERS".

Further in the concluding paragraph of this item the words "average net fixed assets" shall be deleted and substituted by "Net Fixed Physical Assets".

(8) Under the heading of item 8 the words "One eighth of the total operating expenses (as listed in Paragraph 2)" shall be deleted and substituted by the following:

"One-eighth of operating expenses as listed in item 2 of this Schedule, excluding fuel and lube oil expenses, and interest expense in excess of 15% on moneys borrowed."

(9) In the certification at the end of Schedule C Part A the words "MANAGING DIRECTOR" shall be deleted and substituted by "PRESIDENT or CHIEF EXECUTIVE OFFICER."

13. In Schedule C Part B there shall be the following amendments:

(1) Under the heading there shall be deleted "(1)" after "Clause 7".

(2) Subparagraph (a) shall be deleted and substituted as follows:

"(a) THE RATE BASE EQUALS THE NET FIXED PHYSICAL ASSETS WHICH IS THE AVERAGE OF ITEMS 5 (a) AND (b) OF THE INTERIM RETURN, PLUS ALLOWABLE CWIP WHICH IS THE AVERAGE OF THE BEGINNING AND END OF YEAR BALANCE OF CONSTRUCTION WORK WHICH IS STILL IN PROGRESS AT YEAR END AS PER ITEMS 5 (c) AND (d) OF THE INTERIM RETURN, PLUS TOTAL ALLOWABLE WORKING CAPITAL. NO AMOUNT FOR INTEREST ON BORROWINGS WILL BE ALLOWED IN DETERMINING RATE BASE."

(3) Subparagraph (b) shall be deleted and substituted as follows:

"(b) TOTAL ALLOWABLE WORKING CAPITAL EQUALS ALLOWABLE INVENTORY PLUS ALLOWABLE PREPAYMENTS AND DEPOSITS MADE BY THE UNDERTAKERS PLUS ALLOWABLE CASH WORKING CAPITAL AS PER ITEMS 6, 7 AND 8 OF THE INTERIM RETURN."

14. In the brackets under the heading of Schedule D the work "Under" shall be inserted before "Clause" and "7" shall be deleted and substituted by "8".

For ease of reference there is annexed hereto as Appendix A a reprint of the said Licence as now so amended and revised as aforesaid.

IN WITNESS WHEREOF these presents have been executed this 15<sup>th</sup> day of November, 1994.

SIGNED by his Excellency  
MICHAEL EDWARD JOHN GORE  
Governor of the Cayman Islands,  
in the presence of:-

[signed] \_\_\_\_\_  
GOVERNOR

[signed] \_\_\_\_\_  
Witness

THE COMMON SEAL of  
CARIBBEAN UTILITIES COMPANY, LTD.  
was affixed by-

CARIBBEAN UTILITIES  
COMPANY, LTD.

Per: [signed] \_\_\_\_\_

[Peter A. Thomson- signed]

and by [R. Scott Hawkes- signed]

Per: [signed] \_\_\_\_\_  
COMPANY SECRETARY

in the presence of:

[signed] \_\_\_\_\_  
Witness