



REGULATORY  
AUTHORITY

**Bermuda**

## **Application Process for Electricity Licences**

Final Report

Final Decision and Order

Date: 8 August 2017

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## 1 INTRODUCTION

1. The purpose of this Final Report, Final Decision and Order is to present a summary of the responses to (i) the Regulatory Authority's (the "Authority") initial Consultation Document; and (ii) the Authority's Proposed General Determination and Order.
2. The Authority is the sole body responsible for regulation of the electricity sector and its overarching responsibilities are to:
  - regulate tariffs and the quality of service provision to end users;
  - ensure that access to electricity infrastructure by current and prospective generators is transparent, fair, reasonable, and non-discriminatory; and
  - investigate and respond to any complaints from end users relating to the provision of electricity.
3. Section 17 of the Electricity Act 2016 ("EA") provides that no person shall engage in the following regulated activities unless authorised by a licence granted by the Authority:
  - (a) the transmission and distribution of electricity;
  - (b) generation of electricity (unless generation is below the specified licence threshold), large scale self-supply of electricity;
  - (c) retail of electricity;
  - (d) sale of electricity; and
  - (e) wholesale purchase of electricity.
4. Pursuant to Sections 20 and 24 of the EA, the Authority intends, by Administrative Determination, to grant three types of electricity licenses:
  - (a) one<sup>1</sup> TD&R Licence that authorises the holder to transmit<sup>2</sup>, distribute<sup>3</sup> and retail<sup>4</sup> electricity and to purchase electricity from Bulk Generation Licensees<sup>5</sup> and distributed generators<sup>6</sup>;
  - (b) a Bulk Generation Licence that authorises the holder to engage in bulk generation of electricity; and

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<sup>1</sup> See Section 20 (2) of EA.

<sup>2</sup> Convey electricity at or above 22 kilovolts.

<sup>3</sup> Convey electricity below 22 kilovolts

<sup>4</sup> Sell power to commercial, residential and industrial customers (i.e. end-users).

<sup>5</sup> Persons who are generating electricity using a system with an installed capacity at or above a specified threshold/licence threshold (as prescribed in Regulations made by the Minister).

<sup>6</sup> Means end-users who generate electricity using a system with an installed capacity below the licence threshold.

(c) a Large Scale Self-Supply<sup>7</sup> Licence that authorises the holder to engage in large scale self-supply of electricity.

5. Pursuant to Section 23(4) of the EA, the Authority intends to grant two classes of the Bulk Generation Licence: a Bulk Generation (Non-Renewable) Licence and a Bulk Generation (Renewable) Licence.

6. Section 21 of the EA provides that a person who wishes to obtain or renew a licence shall submit to the Authority the application, information and documents required by general determination, together with the application fee set by the Authority.

7. In accordance with Section 66(3) of the EA, the Authority may also issue written instructions setting forth the extent and manner of information and documents relating to this application process and format required from existing sectoral providers in relation to grant of license, as described in Sections 66(1) and 66(2) of the EA.

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<sup>7</sup> Means generation using a system that is not interconnected to any part of the transmission or distribution network.

## **2 PROCEDURAL HISTORY**

8. The Authority initiated this consultation by publishing a Consultation Document on 16<sup>th</sup> June 2017 that invited responses from members of the public, including electricity sectoral participants and sectoral providers, as well as other interested parties.

9. The purpose of the Authority's initial Consultation Document was to consult on the application process for electricity licences.

10. The Consultation Document asked the following questions:

- (i) Do you have any comments on the information the Authority requires as part of the application process?
- (ii) Do you have any comments on the time allowed for processing applications?
- (iii) Do you have any comments on the application process that, subject to related and subsequent assessment by the Authority of an application, may lead to the grant of a licence?

11. Responses to the Consultation Document were solicited from the public electronically through the Authority's website at [www.rab.bm](http://www.rab.bm).

12. The response period commenced on 16<sup>th</sup> June 2017 and concluded on 30<sup>th</sup> June 2017.

13. The Authority received two responses from the public from Bermuda Electric Light Company Limited ("BELCO") and Roger Todd.

14. On 18 July 2017 the Authority issued its Preliminary Report, Preliminary Decision and Order. The Authority invited responses from members of the public, including electricity sectoral participants and sectoral providers, as well as other interested parties.

15. Public comments on the Preliminary Report, Preliminary Decision and Order were to be submitted by 27 July 2017.

16. The Authority received one written response to the Preliminary Report, Preliminary Decision and Order from BELCO.

### **2.1 Final Decision and Order**

17. The Authority hereby adopts the Order in Appendix A and make the General Determination set out in Appendix B to this Final Report and Decision.

### 3 LEGISLATIVE CONTEXT

18. The Regulatory Authority Act 2011 ("RAA") established a cross-sectoral independent and accountable regulatory authority "to protect the rights of consumers, encourage the deployment of innovative and affordable services, promote sustainable competition, foster investment, promote Bermudian ownership and employment and enhance Bermuda's position in the global market".

19. The Electricity Act 2016 ("EA") received Royal Assent on 27<sup>th</sup> February 2016 and came into operation on 28<sup>th</sup> October 2016 pursuant to the Electricity Act 2016 Commencement Day Notice 2016 (BR 101/2016). The EA repealed the Energy Act 2009.

20. Section 17 of the EA provides that no person shall engage in the following regulated activities unless authorised by a licence granted by the Authority: the transmission and distribution of electricity; generation of electricity (unless generation is below the specified licence threshold), large scale self-supply of electricity; retail of electricity; sale of electricity; and wholesale purchase of electricity.

21. Pursuant to Sections 20 and 24 of the EA, the Authority intends, by Administrative Determination, to grant three types of electricity licenses: one TD&R Licence that authorises the holder to transmit , distribute and retail electricity and to purchase electricity from Bulk Generation Licensees and distributed generators; a Bulk Generation Licence (Renewable and Non-Renewable classes) that authorises the holder to engage in bulk generation of electricity; and a Large Scale Self-Supply Licence that authorises the holder to engage in large scale self-supply of electricity.

22. Section 21 of the EA provides that a person who wishes to obtain or renew a licence shall submit to the Authority the application, information and documents required by general determination, together with the application fee set by the Authority.

23. This Consultation Document seeks public consultation on the application process for the TD&R, Bulk Generation and Large Scale Self-Supply Licences, consisting of such application, information and documents.

## **4 SUMMARY AND DISCUSSION OF RESPONSES TO THE INITIAL CONSULTATION DOCUMENT**

### **4.1 Response Method**

24. The Consultation Document allowed the public to submit responses commenting on the Consultation Document and responding to the consultation questions. Two written responses were received from the general public.

### **4.2 Summary of Responses**

25. This section provides an overview of the key themes from the responses to the Consultation Document and summarizes some of the main decisions that the Authority has made, taking into consideration the public responses.

26. Not all respondents chose to answer the questions specified in the Consultation Document. Some preferred to provide their views in more general terms and where possible the Authority has included information from these responses in the appropriate section. In addition, some responses addressed some of the questions but not all.

27. Two parties submitted comments in response to the Consultation Document, BELCO and Roger Todd.

28. The concerns voiced in the responses included questions about the application process, applicable legislation, application definitions and technical concerns.

### **4.3 Discussion of Responses**

29. The responses from the public and the Authority's response and analysis are set forth in the attached RA Response Document.

## **5 SUMMARY AND DISCUSSION OF RESPONSES TO THE PRELIMINARY DECISION**

### **5.1 Response Method**

30. The Preliminary Report, Preliminary Decision and Order allowed the public to submit responses commenting on the Preliminary Report, Preliminary Decision and Order. One written response was received from the general public.

### **5.2 Summary of Responses**

31. This section provides an overview of the key themes from the responses to the Preliminary Report, Preliminary Decision and Order and summarizes some of the main decisions that the Authority has made, taking into consideration the public responses.

32. BELCO was the only party that submitted comments in response to the Preliminary Report, Preliminary Decision and Order.

33. BELCO's comments are summarized in paragraph 5.3 below.

### 5.3 Discussion of Responses

34. The Authority summarizes BELCO's objections and the Authority's response as follows:

35. **BELCO** notes concerns about the paragraph reference in the definition of "Assessment Period." **The Authority** has updated such reference accordingly.

36. **BELCO** notes that the definition of "Proper Application" should be fixed to provide a certain period of time for the assessment of applications. **The Authority** agrees and has updated the definition accordingly.

37. **BELCO** notes that the definition of "Project" should refer to Section 17 of the EA, not Section 17(a). **The Authority** agrees and has updated the reference accordingly. The Authority has also updated paragraphs 1.3 and 6.1 of the Draft Instructions to reflect that the applicant's refusal to comply with any request from the Authority for further information, in accordance with Section 22(2) of the EA, may impact the Authority's review process.

38. **BELCO** notes that the definition of "Site" should be revised to recognize that existing sectoral providers have established plants. **The Authority** notes that the unique requirements of existing sectoral providers will be addressed in the separate written instructions in accordance with Section 66(3)(b) of the EA. The Authority has also updated the language to reflect that there is likely to be an existing plant in the case of licence renewals.

39. **BELCO** notes that paragraph 3.1 of the Draft Instructions should refer to paragraph 3.2 rather than paragraph 6.2. **The Authority** agrees and has updated paragraph 3.1 accordingly.

40. **BELCO** notes that paragraph 4.1 of the Draft Instructions should refer to paragraph 4.2 rather than paragraph 1.2. **The Authority** notes that paragraph 4.1 contains the correct reference. The Authority has reworded paragraph 4.1 slightly to clarify that the reference to paragraph 1.2 is in the context of a "Proper Application".

41. **BELCO** questions how the Authority intends to compel prospective licensees to remit Government authorisation fees (as set forth in Paragraphs 6.4(b) and 6.5(b)) when such fees are only payable by licensees and therefore will only be payable upon issuance of a licence. **The Authority** notes that Paragraphs 6.4(b) and 6.5(b) refer to the "required" Government authorisation fees. If and when such fees are required depends on what is set forth in the relevant legislation. The Government Fees Amendment (No. 2) Regulations 2017 applies only to licensees, which means that such fees are not considered required at the time of application. However, future regulations may change such requirement.

42. **BELCO** questions paragraphs 6.5(d) to (j) of the Draft Instructions, stating that criteria relating to "any person named in the application" as a basis for refusal is inconsistent with the grounds for refusal of an application set forth in Section 32(1) of the EA. **The Authority** notes that one of the grounds of refusal, as set forth in Section 32(1)(b) of the EA,



is that the criteria for approval are not satisfied in the opinion of the Authority. The Authority further notes that the persons named in the application are limited to those who would be relevant to the criteria set for grant of a licence set forth in Section 23 of the EA. Notably, the application does not ask for the name of the person who completes the application or any similarly situated person, a concern raised in BELCO's comment.

43. **BELCO** also included a marked up version of the draft Electricity Licence Applications which reflect the following overarching concerns:

- (i) Under the EA, the Bulk Generation licensee or Large Scale Self-Supply licensee may be an individual.
- (ii) Under the EA, the TD&R licensee must be a company registered in Bermuda.
- (iii) BELCO cannot enter into a power purchase agreement with itself.
- (iv) Section 23(c) and (d) of the EA do not apply to the grant of a large scale self-supply licence.
- (v) If the applicant is a publicly-traded entity with numerous shareholders, the applicant may not be familiar with the technical experience for all of those shareholders with respect to building similar projects. The applicant will likely, however, be familiar with the technical experience for those shareholders who are actually involved in the Project

44. **The Authority** notes BELCO's concerns set forth in (i)-(v) above. While the Authority generally agrees with the points raised by BELCO, it does not always agree with the practical effects such concerns should have on the applications. As such, the Authority has made some, but not all, of the changes suggested by BELCO in its markup.

45. Finally, **BELCO** included feedback on the Authority's contemplated written instructions, in accordance with Section 66(3)(b) of the EA. **The Authority** notes that such written instructions are outside of the scope of this general determination and will be addressed directly with BELCO.

## **6 CONCLUSION**

47. In furtherance of the proposals set forth above, the Authority hereby adopts the Order contained in Appendix A to this Final Report and Final Decision, and makes the Final General Determination contained in Appendix B.

# **APPENDIX A**



BERMUDA  
**REGULATORY  
AUTHORITY**

**Order:  
Application Process for Electricity  
Licences**

Order  
Date: 8 August 2017

**6.1** The Regulatory Authority, pursuant to Sections 44, 52 and 62 of the Regulatory Authority Act 2011 and Sections 6, 14, 17, 20, 21 and 22 of the Electricity Act 2016, hereby:

- (a) Adopts the General Determination attached hereto, setting forth the application process for electricity licences;
- (b) Directs the Chief Executive of the Regulatory Authority to forward the General Determination to the Cabinet Secretary; and
- (c) Authorises the General Determination to be effected on the date of its publication in the Royal Gazette.

**6.2** So Ordered this 8 day of August 2017

# APPENDIX B



## BERMUDA

### [Regulatory Authority (Application Process for Electricity Licences) General Determination]

BR /2017

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1	Citation
2	Interpretation
3	General Purpose
4	Determination
5	Terms and Conditions of General Determination
6	Effective Date of General Determination

The Regulatory Authority, in the exercise of the power conferred by section 62 of the Regulatory Authority Act 2011, as read with sections 44 and 52 of that Act and sections 6, 14, 17, 20, 21 and 22 of the Electricity Act 2016, makes the following General Determination:

#### **Citation**

1 This General Determination may be cited as the [Regulatory Authority (Application Process for Electricity Licences) General Determination].

#### **Interpretation**

2 In this General Determination, unless the context otherwise requires, terms shall have the meaning given in the Regulatory Authority Act 2011, the Electricity Act 2016, the Interpretation Act 1951, and the Schedule to this General Determination.

#### **General Purpose**

3 This General Determination establishes the application process for electricity licences.

#### **Determination**

4 (1) This General Determination is made pursuant to the Consultation entitled "Consultation on the Application Process for Electricity Licences" dated 16<sup>th</sup> June 2017 and the Regulatory Authority's Decision on it.

(2) Taking into account the received responses to the Consultation and for the reasons given in the Decision, the Authority determines that the application process set forth in the Schedule is consistent with the purposes of the Electricity Act 2016, including to seek to: (a) ensure the adequacy, safety, sustainability and reliability of electricity supply in Bermuda; (b) encourage electricity conservation and the efficient use of electricity; (c) promote the use of cleaner energy

solutions and technologies; (d) provide sectoral participants and end-users with non-discriminatory interconnection to transmission and distribution systems; (e) protect the interests of end-users with respect to prices and affordability, and the adequacy, reliability and quality of electricity service; and (f) promote economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity.

### **Terms and conditions of General Determination**

5 (1) The Schedule to this General Determination has effect.

(2) The Schedule is published on the Regulatory Authority's website ([www.rab.bm](http://www.rab.bm)), and is also available for inspection at the offices of the Authority [1<sup>st</sup> Floor, Craig Appin House, 8 Wesley Street, Hamilton HM 11) during ordinary business hours.

### **Effective Date of General Determination**

6 This General Determination shall become effective on the day it is published in the Official Gazette.





BERMUDA

**REGULATORY  
AUTHORITY**

**Schedule to [Regulatory Authority  
(Application Process for Electricity  
Licences) General Determination 2017]**

General Determination

Date: 10 August 2017

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This General Determination is made by the Regulatory Authority of Bermuda pursuant to Section 62(1) of the Regulatory Authority Act 2011 (“**RAA**”) and in accordance with Sections 6, 14, 17, 20, 21 and 22 of the Electricity Act 2016 (“**EA**”) and establishes the process for applying for and/or issuing an Electricity Licence (including the application, information and documents required), renewal of Electricity Licences and the procedures followed by the Authority when determining applications for and/or issuance of Electricity Licences and renewal of Electricity Licences.

## **1 Definitions**

“**Assessment Period**” means the period in which the Authority will assess a Proper Application, as described in paragraph 1.3 of Annex 1;

“**Authority**” means the Regulatory Authority of Bermuda;

“**Bulk Generation Licence**” means a licence granted or to be granted under Section 20(1)(b) of the EA (and for the avoidance of doubt includes any Bulk Generation Licence for Renewable Energy in Bermuda);

“**Bulk Generation Licensee**” means a holder of the Bulk Generation Licence;

“**Controller**”, in relation to any applicant and/or Project, means:

- a. a managing director of the applicant and/or Project or of another person of which it is a subsidiary;
- b. a chief executive of the applicant and/or Project or of another person of which it is a subsidiary; and
- c. a person in accordance with whose directions or instructions the directors of the undertaking or of its parent undertaking (or any of them) are accustomed to act;

“**EA**” means the Electricity Act 2016;

“**Electricity Licence**” means either a Bulk Generation Licence, TD&R Licence or Large Scale Self-Supply Licence (as the context requires);

“**Electricity Licences**” means the Bulk Generation Licences, TD&R Licences and Large Scale Self-Supply Licences;

“**Large Scale Self-Supply Licence**” means a licence granted or to be granted under Section 20(1)(c) of the EA;

“**Official Website**” means the website established by the Authority pursuant to Section 18 of the RAA;

“**Proper Application**” means an application which is acknowledged by the Authority as duly made;

“**Project**” means the proposed regulated activities, as defined in Section 17(a) of the EA, which are the object of the application;

“**RAA**” means the Regulatory Authority Act 2011;

**“Senior Executive”** means, in relation to an applicant, means a person who, under the immediate authority of a director or chief executive of the applicant (a) exercises managerial functions; or (b) is responsible for maintaining accounts or other records of the institution;

**“Site”** means the parcel(s) of land on which the Project is to be constructed, which, in the case of an application for renewal of Electricity Licences, may also include the parcel(s) of land on which the Project is constructed;

**“TD&R Licence”** means a licence granted or to be granted under Section 20(1)(a) of the EA; and

**“TD&R Licensee”** means a holder of the TD&R Licence.

## **2 Interpretation**

- (1) For purposes of interpreting this General Determination:
  - (a) unless the context otherwise requires, words or expressions shall have the meaning assigned to them by the RAA and the EA;
  - (b) where there is any conflict between the provisions of this General Determination and the EA or RAA, the provisions of the EA or RAA, as the case may be (and subject to sections 3(2) and 3(3) of the EA), shall prevail;
  - (c) terms defined herein and in the EA and RAA have been capitalised;
  - (d) headings and titles used herein are for reference only and shall not affect the interpretation or construction of this General Determination;
  - (e) references to any law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
  - (f) a document referred to herein shall be incorporated into and form part of this General Determination and a reference to such document is to the document as modified from time to time;
  - (g) expressions cognate with those used herein shall be construed accordingly;
  - (h) use of the word "include" or "including" is to be construed as being without limitation; and
  - (i) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited.

## **3 Legislative and Procedural Background**

- (1) This General Determination has been undertaken in accordance with section 62 of the RAA and the exercise by the Authority of its powers under sections 6, 14, 17, 20, 21 and 22 of the EA.
- (2) The Authority initiated this consultation by publishing a Consultation Document on 16 June 2017 that invited responses from members of the public, including electricity sectoral participants and sectoral providers, as well as other interested parties. The purpose of the Authority’s initial Consultation Document was to consult on the application process for the Bulk Generation Licence, Large Scale Self-Supply Licence and TD&R Licence.
- (3) The Consultation Document asked the following questions:

- Do you have any comments on the information the Authority requires as part of the application process?
  - Do you have any comments on the time allowed for processing applications?
  - Do you have any comments on the application process that, subject to related and subsequent assessment by the Authority of an application, may lead to the grant of a licence?
- (4) The Consultation Document also invited respondents to comment on the structure of the proposed application process.
  - (5) Responses to the Consultation Document were solicited from the public electronically through the Authority's website at rab.bm.
  - (6) The response period commenced on 16 June 2017 and concluded on 30 June 2017.
  - (7) The Authority received two responses from the public.
  - (8) The Authority issued a Preliminary Report, Preliminary Decision and Order on 18 July 2017. The Authority invited responses from members of the public, including electricity sectoral participants and sectoral providers, as well as other interested parties.
  - (9) The Authority received one written response from BELCO.

#### **4 Final Determination**

- (1) Pursuant to section 62 of the RAA and in accordance with sections 6, 14, 17, 20, 21 and 22 of the EA using the general powers granted to the Authority under section 13 of the RAA and in accordance with the procedures established for this purpose in section 62 of the RAA, the Authority hereby determines that:
- (2) The adoption and implementation of the Application Process for Electricity Licences as set forth in Annex 1 of this Schedule below is consistent with the purposes of the Electricity Act 2016, including to seek to: (a) ensure the adequacy, safety, sustainability and reliability of electricity supply in Bermuda; (b) encourage electricity conservation and the efficient use of electricity; (c) promote the use of cleaner energy solutions and technologies; (d) provide sectoral participants and end-users with non-discriminatory interconnection to transmission and distribution systems; (e) protect the interests of end-users with respect to prices and affordability, and the adequacy, reliability and quality of electricity service; and (f) promote economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity.

# ANNEX 1

# Application Process for Electricity Licences

## 1. Manner of Application for Electricity Licences

1.1 An application for an Electricity Licence shall be:

- (a) made in writing in the form prescribed in paragraph 2, addressed to the Authority and delivered or sent by prepaid post to the Authority at its principal office or sent by electronic mail to an address specified by the Authority; and
- (b) signed and dated by or on behalf of the applicant, stating, where signed on behalf of the applicant, the capacity of the signatory.

1.2 Within 15 Business Days of it receiving an application for an Electricity Licence, the Authority shall write to the applicant to:

- (a) confirm receipt of a Proper Application; or
- (b) inform the applicant that its application is incomplete and set out what information and/or documentation the Authority requires in order to be able to start to process the application.

1.3 The Authority will assess a Proper Application within 90 Business Days of its receipt of such application, subject to the applicant's compliance with paragraph 6.1 below.

## 2. Form of application

2.1 An application in respect of a Bulk Generation Licence shall be made in the form specified in Part 1 of Schedule 1 and shall contain the information specified therein.

2.2 An application in respect of a TD&R Licence shall be made in the form specified in Part 2 of Schedule 1 and shall contain the information specified therein.

2.3 An application in respect of a Large Scale Self-Supply Licence shall be made in the form specified in Part 3 of Schedule 1 and shall contain the information specified therein.

## 3. Application Fees

3.1 Subject to paragraph 3.2, the prescribed fee in relation to an application of the description specified in the first column of the table in Schedule 2 shall be the corresponding fee specified in the second column of that table.

3.2 Where more than one fee would, but for this paragraph, be payable in respect of a particular application, the prescribed fee shall be the higher or highest such fee.

## 4. Publication of notice of application

4.1 In accordance with Section 21(3) of the EA, upon receipt of a Proper Application for an Electricity Licence (subject to paragraph 1.2) with the corresponding application fee as set out in Schedule 3, the Authority shall publish a notice on its Official Website

and in the Gazette in respect of such application. The Authority shall publish such notice on its Official Website within 5 Business Days of notifying the applicant pursuant to paragraph 1.2 above and in the Gazette as soon as practicable thereafter.

- 4.2 In accordance with Section 21(3) of the EA, the notice published under paragraph 4.1 shall state:
- (a) the name of the applicant;
  - (b) the objects of the application;
  - (c) that the application will be available for viewing by any member of the public at the Authority's office and on the Official Website;
  - (d) an invitation to the public to make comments;
  - (e) the period within which any comments in relation to the issue of the Electricity Licence may be lodged with the Authority;
  - (f) the address where any comments may be submitted (and that such comments may be made electronically); and
  - (g) such other particulars as may be determined by the Authority.

## 5. **Application for Renewal of Electricity Licences**

- 5.1 Applications for the renewal of Electricity Licences should be submitted with the information and documents required under paragraph 2 above to the Authority at least six (6) months before the expiry of their existing licence.

## 6. **Procedures for determination by the Authority of applications for Electricity Licences and applications for renewal of Electricity Licences**

- 6.1 During the Assessment Period, the Authority may determine that the application contains an omission or any discrepancies. In this event, pursuant to Section 22(2) of the EA, the Authority shall write to the applicant as soon as possible setting out what further information or documents need to be provided by the applicant to the Authority within the prescribed period to determine the application. The Authority has a responsibility to ensure that licenses are awarded to entities and parties that can participate on a sustainable and viable basis in the Bermuda electricity sector. Therefore, the Authority may decide to request supplemental information in support of an application within a stipulated time pursuant to Section 22(2) of the EA, including any information the Authority may deem necessary for an assessment of the technical and financial aspects of an applicant and application, as well as the operational and business competence of an applicant.
- 6.2 During the Assessment Period, the Authority shall be entitled to consider comments from members of the public, pursuant to the Authority's rules of practice and procedure regarding public consultations under Section 70 of the RAA.
- 6.3 Upon completion of its assessment, the Authority will decide whether it will:



- (a) grant an Electricity Licence with conditions; OR
- (b) grant an Electricity Licence without conditions; OR
- (c) propose to refuse the applicant's application for an Electricity Licence in which case paragraph 6.5 below applies.

6.4 The Authority may grant an Electricity Licence provided:

- (a) the applicant has paid the relevant application fee;
- (b) the applicant has paid the required Government authorisation fees;
- (c) the Authority decides such grant is consistent with the purposes of the EA and any Ministerial directions made regarding the structure of the electricity sector pursuant to the EA;
- (d) the applicant has provided a Proper Application;
- (e) the applicant has provided any further information required by the Authority pursuant to paragraph 6.1 above.

6.5 The Authority may propose to refuse to grant an Electricity Licence if:

- (a) the applicant has failed to pay the relevant application fee;
- (b) the applicant has failed to pay the required Government authorisation fees;
- (c) the grant of such licence is not consistent with the purposes of the EA and any Ministerial directions made regarding the structure of the electricity sector pursuant to section 8 of the EA;
- (d) any person(s) named in the application are disqualified to any extent from acting in connection with the affairs of any company;
- (e) any person(s) or entity named in the application are undischarged bankrupts, have been declared insolvent or are subject to a voluntary arrangement with creditors;
- (f) any person(s) or entity named in the application has an unspent criminal conviction;
- (g) any person(s) or entity name in the application has unsatisfied court judgment(s);
- (h) the applicant, or any person or entity named in the application has previously had a licence application refused or a licence revoked;
- (i) the applicant is insolvent;
- (j) the Authority considers information supplied to be false or misleading; and,

(k) the applicant has failed to provide, when requested, additional information within the required time.

6.6 If the Authority proposes to refuse an application, the Authority will provide a written notice to the applicant. Such notice will state that the Authority proposes to refuse the application, the reasons why the Authority proposes to refuse the application and the time within which representations may be made by the applicant. The applicant will have 21 days from the date of the notice to make representations about why it disagrees with the Authority's proposal to refuse the application and to provide any further information required. The Authority shall consider any representations duly made. If the applicant does not make any representations within 21 days of the notice, or if after considering any representations, the Authority is still of the view that the application should be refused, the applicant will be notified in writing of the decision to refuse the licence. Such notification will, where no representations have been made, restate the reasons for the refusal of the application; and where representations were made, state the reasons for the refusal of the application, referring to the representations made where appropriate.

6.7 On granting an Electricity Licence, the Authority will send to the successful applicant a signed and sealed licence to the address indicated in section 2.1 of the applicant's form of application.

## SCHEDULE 1

### Part 1: Form of Application in respect of a Bulk Generation Licence

#### 1 Purpose of the Application

- 1.1 Pursuant to Section 21(1) of the Electricity Act 2016 (the “EA ”), a person that wishes to obtain or renew a Bulk Generation Licence shall submit to the Authority an application in respect of such licence.
- 1.2 This is an Application to the Regulatory Authority (the “Authority”) for a Bulk Generation Licence. Under Section 20(1)(b) of the Electricity Act 2016 (the “EA”), a Bulk Generation Licence authorises the licence holder to engage in the bulk generation of electricity in Bermuda.

#### 2 Applicant Information

In accordance with Section 23(2) of the EA, please provide the following information on the Project and the Project’s directors, Controllers and Senior Executives.

##### 2.1 Project Information

Name and registered address (if applicable) of applicant in full. In the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned and indicate the preferred address for notifications	
Where the applicant is a body corporate:  (i) the jurisdiction under which it is incorporated; and  (ii) if applicable, its registered number.	
Name, address, facsimile number (where applicable), telephone number and electronic mail address of person to whom correspondence or enquiries concerning the application should be directed	
Is this an application to obtain a new licence or renew an existing licence?	

##### 2.2 Information on Project owners, directors, Controllers and Senior Executives

- (a) Provide the following information for all directors, Controllers and Senior Executives of the Site and Project (this evidence may be submitted under confidential cover, pursuant to Sections 33 and 34 of the Regulatory Authority Act (the “RAA”).

<b>Legal name of person</b>	<b>Role (applicant, etc.)</b>	<b>Principal business office address</b>	<b>Social Insurance number</b>	<b>Date of birth</b>	<b>Data Universal Numbering System (DUNS) number (applicant and owners only)</b>

- (b) Describe the legal interests in the Project of each owner and each director, Controller and Senior Executive.

<b>Person</b>	<b>Legal Interests</b>

- (c) Provide legal names for all of applicant's Affiliates (including Affiliates of the applicant and the applicant's owners), if any.

<b>Entity</b>	<b>Affiliates</b>
[name of applicant]	[list of affiliates of the applicant]
[Owner 1]	[list of affiliates of the applicant]
[Owner 2]	[list of affiliates of the applicant]
[Owner 3]	[list of affiliates of the firm]

- (d) Describe the technical experience of the applicant and its owners in designing, building, and/or operating similar projects, particularly in comparable jurisdictions.

<b>Owner</b>	<b>Relevant Experience</b>
[name of applicant]	[describe relevant experience]
[Owner 1]	[describe relevant experience]
[Owner 2]	[describe relevant experience]
[Owner 3]	[describe relevant experience]

**3 Project Description**

Describe the aspects of the Project below.

**3.1 Location of the proposed Site**

Provide the address of the proposed Site. Attach maps and photos as necessary.

**3.2 Generating Units**

(a) Provide the information in the table below, for each proposed generating unit.

Unit Name	Technology	Fuel Source	Capacity (kW)	Est. Annual Gross Gen. (kWh)	Est. Annual Gen. Sold to Grid (kWh)	Est. Capacity Factor	Est. Economic Life
Total			[total capacity at Site]	[total expected generation at Site]			

(b) Describe the maintenance schedule for the units.

Unit Name	Maintenance Schedule

(c) Provide information on self- consumption of electricity provided by the generating units for this Project.

How much electricity generated by the Project does the applicant plan to consume at its own facilities (kWh)	
Describe the facilities that will consume the electricity	
Describe the proposed facilities that will be used to connect the generating equipment to your facilities that will consume the electricity.	

### 3.3 Interconnection Facilities

Describe all interconnection facilities, such as power lines, substations, switchyards, and other transmission equipment, and right-of-way (if required). Attach technical plans or photos if necessary.

### 3.4 Fuel Characteristics

Describe the following fuel characteristics for the Project.

What type or types of fuel will be used	
Company or companies that will supply the fuel (attach fuel supply agreement)	
Origin of fuel	
Description of facilities used to import and store (attach technical plans and/or photographs)	
Attach scenarios with projections of the amount of each fuel that the Project will use	

### 3.5 Permits

In accordance with Section 23(1)(a) of the EA, provide evidence that the applicant has obtained such permission as required under the Companies Act 1981, the Development and Planning Act 1974, the Building Act 1988, the Clean Air Act 1991, and any other relevant legislation. Attach copies of such permissions.

### 3.6 Safety

Describe the safety, emergency, and auxiliary systems that will ensure that the Project can be built and operated safely. Attach relevant technical plans and safety and emergency procedures.

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### 3.7 **Water supply routes and facilities**

Describe how the generating plant will obtain the water supply necessary for operations.

If this plan requires permits or approvals from an agency, provide documentation that these permits or approvals have been granted.

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### 3.8 **Projected timeline and cost**

Submit:

- (a) a schedule detailing the expected Project timeline, including design and engineering milestones, construction milestones, and expected in-service date; and
- (b) an estimate of the cost of developing the Site, installing the proposed facilities, and operating the facilities over the estimated economic lifetime of the Project.

## 4 **Business Plan and Audited Financial Statements**

Section 23(1)(c) of the EA requires that the applicant has demonstrated the necessary financial capacity to build and maintain the Project.

Accordingly, attach a business plan and audited financial statements, as described below. You may submit these documents under confidential cover, pursuant to Sections 33 and 34 of the RAA.

### 4.1 **Business Plan and financial information**

The applicant must provide a business plan. The business plan must, at a minimum, describe:

- (a) The applicant's business goals, objectives, and mission;
- (b) The ownership structure of the applicant, and what experience the applicant and its owners have in developing and operating similar projects;
- (c) How the applicant will provide the energy, capacity, and other services it is contracted to provide under the Power Purchase Agreement ("PPA") or shall provide under power purchase arrangements (if necessary);
- (d) The resources that the applicant will use to provide its contracted services; and
- (e) The applicant's financial plan, including estimates for key financial indicators against which the applicant, its owners, and creditors will measure its financial performance.

In addition, the applicant must provide information and explanation as to how it will finance the proposed activities that would occur under a license.

#### 4.2 **Audited Financial Statements**

Submit audited financial statements for the applicant and for each of its owners for the last three fiscal years. Applicant must submit financial statements prepared in accordance with International Financial Reporting Standards, or other generally accepted accounting principles as applicant may select with the Authority's written approval.

#### 5 **Executed PPA**

In accordance with Section 23(2) of the EA:

- 5.1 Where the applicant is applying for a Bulk Generation Licence, it must submit copies of the PPA that it has negotiated and executed with the TD&R Licensee. If such applicant is also the TD&R Licensee, the applicant may submit details of its power purchase arrangements in lieu of an executed PPA. These agreements or arrangements may be submitted under confidential cover, pursuant to sections 33 and 34 of the RAA.

#### 6 **Evidence of Applicant's Probity**

In accordance with Section 23(1)(d) of the EA, an applicant must submit evidence of its probity and suitability to be granted a licence. Applicant must submit attestations signed before a Commissioner for Oaths by himself or herself, in the case of an individual, or its directors, Controllers and Senior Executives, in the case of a company or partnership, of their probity, using the language provided in Appendix A.



**Appendix A: Attestation of Probity**

**Name of Person:**

**Name of Applicant:**

**Name of Project:**

**Title:**

I certify that I am a fit and proper person to participate in electricity generation in Bermuda. I make this certification as part of **[name of applicant]**'s application for a Bulk Generation Licence.

Specifically, I have not been convicted of any criminal conduct (within the meaning of the Proceeds of Crime Act 1997) that suggests that my participation in electricity generation is not in the best interests of Bermuda.

Further, I do not have any interest or affiliation that would, or would likely, cause the applicant to be in conflict with the best interest of Bermuda or the electricity sector if it held the Licence.

Signed \_\_\_\_\_

Dated \_\_\_\_\_

## **Part 2: Form of Application in respect of a TD&R Licence**

### **7. Purpose of the Application**

7.1 As described in Section 21(1) of the Electricity Act 2016 (the “EA”), a person that wishes to obtain or renew a TD&R Licence shall submit to the Authority an application in respect of such licence.

7.2 This is an Application to the Regulatory Authority (the “Authority”) for a TD&R Licence. As described in Section 20(1)(a) of the Electricity Act 2016 (the “EA”), a TD&R Licence authorises the licence holder to transmit, distribute and retail electricity and to purchase electricity from Bulk Generation Licensees and distributed generators.

### **8. Applicant Information**

In accordance with Section 23(1) of the EA, please provide the following information on the Project and the Project’s owners, directors, Controllers and Senior Executives.

#### **8.1 Project Information**

Name and registered address of applicant in full.	
(i) The jurisdiction under which the applicant is incorporated; and  (ii) its registered number.	
Name, address, facsimile number (where applicable), telephone number and electronic mail address of person to whom correspondence or enquiries concerning the application should be directed	
Is this an application to obtain a new licence or renew an existing licence?	

#### **8.2 Information on Project owners and directors, Controllers and Senior Executives**

(a) Provide the following information for all owners and directors, Controllers and Senior Executives of the Site and Project. (This evidence may be submitted under confidential cover, pursuant to Sections 33 and 34 of the Regulatory Authority Act (the “RAA”).

Legal name of person	Role (applicant, etc.)	Principal business office address	Social Insurance number	Date of birth	Data Universal Numbering System (DUNS) number (applicant and owners only)

(b) Describe the legal interests of each owner, director, Controller and Senior Executive in the Project.

Person	Legal Interests

(c) Provide legal names for all of applicant's Affiliates (including affiliates of the applicant and the applicant's owners).

Entity	Affiliates
[name of applicant]	[list of Affiliates of the applicant]
[Owner 1]	[list of Affiliates of the applicant]
[Owner 2]	[list of Affiliates of the applicant]
[Owner 3]	[list of Affiliates of the applicant]

(a) Describe the technical experience of the applicant and its owners in designing, building, and/or operating similar projects, particularly in comparable jurisdictions.

Owner	Relevant Experience
[name of applicant]	[describe relevant experience]

[Owner 1]	[describe relevant experience]
[Owner 2]	[describe relevant experience]
[Owner 3]	[describe relevant experience]

**9. Permits**

In accordance with Section 23(1)(a) of the EA, provide evidence that the applicant has obtained such permission as required under the Companies Act 1981, the Development and Planning Act 1974, the Building Act 1988, the Clean Air Act 1991, and any other relevant legislation. Attach copies of such permissions.

**10. Safety**

Describe the safety, emergency, and auxiliary systems that will ensure that the Project can be built and operated safely. Attach relevant technical plans and safety and emergency procedures.

**11. Business Plan and Audited Financial Statements**

Section 23(1)(c) of the EA requires that the applicant has demonstrated the necessary financial capacity to build and maintain the Project.

Accordingly, attach a business plan and audited financial statements, as described below. Applicant may submit these documents under confidential cover, pursuant to Sections 33 and 34 of the RAA.

**11.1 Business Plan**

The applicant must provide a business plan. Such business plan must, at a minimum, describe:

- (a) The applicant's business goals, objectives, and mission;
- (b) The ownership structure of the applicant, and what experience the applicant and its owners have in developing and operating similar projects;
- (c) The resources that the applicant will use to provide its contracted services; and
- (d) The applicant's financial plan, including estimates for key financial indicators against which the applicant, its owners, and creditors will measure its financial performance.

In addition, the applicant must provide information and explanation as to how it will finance the proposed activities under the licence.

**11.2 Audited Financial Statements**

Submit audited financial statements for the applicant and for each of its owners for the last three fiscal years. You must submit financial statements prepared in accordance with International Financial Reporting Standards, or other generally accepted accounting principles as applicant may select with the Authority's written approval.

**12. Evidence of Applicant's Probity**

In accordance with Section 23(1)(d) of the EA, an applicant must submit evidence of its probity and suitability to be granted a licence. Applicant must submit attestations signed before a Commissioner for Oaths by its directors, Controllers and Senior Executives of their probity, using the language provided in Appendix A.

**Appendix A: Attestation of Probity**

**Name of Person:**

**Name of Applicant:**

**Name of Project:**

**Title:**

I certify that I am a fit and proper person to participate in electricity transmission, distribution and retail in Bermuda. I make this certification as part of **[name of applicant]**'s application for a TD&R Licence.

Specifically, I have not been convicted of any criminal conduct (within the meaning of the Proceeds of Crime Act 1997) that suggests that my participation in electricity transmission, distribution and retail is not in the best interests of Bermuda.

Further, I do not have any interest or affiliation that would, or would likely, cause the applicant to be in conflict with the best interest of Bermuda or the electricity sector if it held the Licence.

Signed \_\_\_\_\_

Dated \_\_\_\_\_

**Part 3: Form of Application in respect of a Large Scale Self-Supply Licence**

**1 Purpose of the Application**

- 1.1 Pursuant to Section 21(1) of the Electricity Act 2016 (the “EA ”), a person that wishes to obtain or renew a Large Scale Self-Supply Licence shall submit to the Authority an application in respect of such licence.
- 1.2 This is an Application to the Regulatory Authority (the “Authority”) for a Large Scale Self-Supply Licence. Under Section 20(1)(c) of the Electricity Act 2016 (the “EA”), a Large Scale Self-Supply Licence authorises the licence holder to engage in the large scale self-supply of electricity in Bermuda.

**2 Applicant Information**

In accordance with Section 23(3) of the EA, please provide the following information on the Project and the Project’s owners, directors, Controllers and Senior Executives.

**2.1 Project Information**

Name and registered address of applicant in full. In the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned and indicate the preferred address for notifications	
Where the applicant is a body corporate:  (i) the jurisdiction under which it is incorporated; and  (ii) if applicable, its registered number.	
Name, address, facsimile number (where applicable), telephone number and electronic mail address of person to whom correspondence or enquiries concerning the application should be directed	
Is this an application to obtain a new licence or renew an existing licence?	

**2.2 Information on Project owners, directors, Controllers and Senior Executives**

- (a) Provide the following information for all owners, directors, Controllers and Senior Executives of the Site and Project (this evidence may be submitted under confidential cover, pursuant to Sections 33 and 34 of the Regulatory Authority Act (the “RAA”)).

<b>Legal name of person</b>	<b>Role (applicant, etc.)</b>	<b>Principal business office address</b>	<b>Social Insurance number</b>	<b>Date of birth</b>	<b>Data Universal Numbering System (DUNS) number (applicant and owners only)</b>

- (b) Describe the legal interest of each owner, director, Controller and Senior Executive in the Project.

<b>Person</b>	<b>Legal Interests</b>

- (c) Provide legal names for all of applicant's Affiliates (including Affiliates of the firm and the firm's owners).

<b>Entity</b>	<b>Affiliates</b>
[name of applicant]	[list of affiliates of the applicant]
[Owner 1]	[list of affiliates of the applicant]
[Owner 2]	[list of affiliates of the applicant]
[Owner 3]	[list of affiliates of the applicant]

- (d) Describe the technical experience of the applicant and its owners in designing, building, and/or operating similar projects, particularly in comparable jurisdictions.

<b>Owner</b>	<b>Relevant Experience</b>
[name of applicant]	[describe relevant experience]
[Owner 1]	[describe relevant experience]
[Owner 2]	[describe relevant experience]
[Owner 3]	[describe relevant experience]



**3 Project Description**

Describe the aspects of the Project below.

**3.1 Location of the proposed Site**

Provide the address of the proposed Site. Attach maps and photos as necessary.

**3.2 Generating Units**

(a) Provide the information in the table below, for each proposed generating unit.

Unit Name	Technology	Fuel Source	Capacity (kW)	Est. Annual Gross Gen. (kWh)		Est. Capacity Factor	Est. Economic Life
Total			[total capacity at Site]	[total expected generation at Site]			

(b) Describe the maintenance schedule for the units.

Unit Name	Maintenance Schedule

(c) Provide information on the load demands that will be serviced by the generating units for this Project.

Describe the facilities that will consume the electricity	
Describe the proposed facilities that will be used to connect the generating equipment to your facilities that will consume the electricity.	

d) Describe the contingency plans in the event that the generating units fail to meet the required load.

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### 3.3 Fuel Characteristics

Describe the following fuel characteristics for the Project.

What type or types of fuel will be used	
Company or companies that will supply the fuel (attach fuel supply agreement)	
Origin of fuel	
Description of facilities used to import and store (attach technical plans and/or photographs)	
Attach scenarios with projections of the amount of each fuel that the Project will use	

### 3.4 Permits

In accordance with Section 23(1)(a) of the EA, provide evidence that the applicant has obtained such permission as required under the Companies Act 1981, the Development and Planning Act 1974, the Building Act 1988, the Clean Air Act 1991, and any other relevant legislation. Attach copies of such permissions.

### 3.5 Safety

Describe the safety, emergency, and auxiliary systems that will ensure that the Project can be built and operated safely. Attach relevant technical plans and safety and emergency procedures.

### 3.6 **Water supply routes and facilities**

Describe how the generating plant will obtain the water supply necessary for operations.

If this plan requires permits or approvals from an agency, provide documentation that these permits or approvals have been granted.

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### 3.7 **Projected timeline and cost**

Submit:

- (a) a schedule detailing the expected Project timeline, including design and engineering milestones, construction milestones, and expected in-service date; and
- (b) an estimate of the cost of developing the Site, installing the proposed facilities, and operating the facilities over the estimated economic lifetime of the Project.

## 4 **Business Plan and Audited Financial Statements**

Section 23(1)(c) of the EA requires that the applicant has demonstrated the necessary financial capacity to build and maintain the Project.

Accordingly, attach a business plan and audited financial statements, as described below. You may submit these documents under confidential cover, pursuant to Sections 33 and 34 of the RAA.

### 4.1 **Business Plan and Financial Information**

The applicant must provide a business plan. The business plan must, at a minimum, describe:

- (a) The applicant's business goals, objectives, and mission;
- (b) The ownership structure of the applicant, and what experience the applicant and its owners have in developing and operating similar projects;
- (c) The resources that the applicant will use to provide its contracted services; and
- (d) The applicant's financial plan, including estimates for key financial indicators against which the applicant, its owners, and creditors will measure its financial performance.

In addition, the applicant must provide information and explanation as to the how it will finance the proposed activities that would occur under a license.

### 4.2 **Audited Financial Statements**

Submit audited financial statements for the applicant and for each of its owners for the last three fiscal years. You must submit financial statements prepared in accordance with International Financial Reporting Standards, or other generally accepted accounting principles as you may select with the Authority's written approval.

**Schedule 2**

**Application Fees**

<b>Description of Application</b>	<b>Fee Payable (\$)</b>
Bulk Generation Licence (25MW or above)	\$40,000
Bulk Generation Licence (less than 25MW)	\$25,000
TD&R Licence	\$40,000
Large Self-Supply Licence	\$15,000