

Grenlec Comments

on

Draft Regulations on Rules and Procedures for Applying for Licences and Permits

February 24th, 2020

Reservations of Rights – Grenada Electricity Services Limited (Grenlec) submits these comments and responses without prejudice to (i) its several request for reasonable extensions of time to fully review, analyse and comment on the Draft Regulations on Rules and Procedures for Applying for Licences and Permits 2019; (ii) its right to be engaged in pre-consultation with the PURC in relation to the Draft Regulations on Rules and Procedures for Applying for Licences and Permits 2019; and (iii) its right to submit further comments on the Draft Regulations on Rules and Procedures for Applying for Licences and Permits 2019. Grenlec does not waive, acquiesce in the waiving or the relinquishing of any of its legal or equitable rights by submitting these responses and reserves all its rights.

PART 1: PREMILIMINARY

Page 5-6 3. Licence Obligation. Exemption. Permits (2)(a)(b); (4); (5)(d)

“(2) A person who self-generates or who intends to self-generate electricity **must apply for a Permit and** may be exempted from the obligation to obtain a licence in the following circumstances:

GRENLEC Insert the words “must apply for a Permit” The most prevalent request for exemption from having to obtain a licence will be from an individual who has a solar panel on his/her residence and who is interconnected to a network Licensee and will require a Permit.

“(a) if he/she possesses electricity generation capacity and equipment for such generation, and use of electricity from any source for ~~its or~~ his or her own use during periods when the network licensee in whose authorised area the self-generator is located is prevented by weather or other emergent circumstances from supplying electricity to such self-generator;”

GRENLEC Delete “its or”

“(b) if he/she generates electricity for his/her own consumption from a renewable source on a premise and such electricity is consumed on ~~any~~ **the same** premise.

GRENLEC Delete the word “any” and insert the word “same”. Using the phrase “consumed on any premise” can lead to generating electricity on one premise and consuming it on a distance premise by transmitting it via the Network Licensee’s network. This should not be allowed. Hence the electricity must be consumed on the same premise.

Page 6 “(4) Self-generators exempted from the obligation of obtaining a licence in accordance with sub-sections (2) and (3), but who intend to connect their electricity generating facility to the electrical system of a network licensee and/or to supply excess of electricity to a network licensee, ~~shall~~ **must** also obtain a Permit.”

GRENLEC All self-generators must have a permit. There is no application form for obtaining a permit.

“(5) Permits required by sub-section (4) shall be granted by the Minister, but the application for permits shall be submitted to the Commission in accordance with the requirements that shall be established by the Commission with regards to:

“(d) fees or charges payable by self-generators to licensees in order to contribute to the operation and maintenance of the Network’s Licensee’s electrical system;”

GRENLEC Network Licensee is a defined term, it should be capitalized.

Pages 8 **4. Interpretation**

“non-renewable generation licence” the licence which allows its holder to generate electricity from non-energy non-renewable resources, and store and sell it to a network licensee;”

GRENLEC Replace the word “non-energy” with “non-renewable”.

“prescribed” means as ~~prescribed~~ set out by these regulations

GRENLEC Change the second occurrence of “prescribed” to “as set out”

Page 9 “supply” means the sale and resale of electricity (Duplicate- already defined on page 8)

“transmission system” ~~means the transport of electricity through high voltage electricity systems, and the transport of electricity for interconnection the island of Grenada with another island or country as prescribed;~~ the devices and structures used to enable the transport of electrical energy between substations at a High Voltage. as defined in the Transmission and Distribution Grid Code.

GRENLEC The suggested word change brings the definition in alignment with the Grid Code.

PART II – GENERAL REQUIREMENTS AND PROCEDURE APPLICABLE TO ALL KIND OF APPLICATIONS

Page 11 **7. Application Fee and Licence Fee**

GRENLEC To whom is the application fee paid? PURC? Government?

Page 12 **8. Evaluation criteria and process (2)(b)**

“(2) The Commission shall, in accordance with these regulations, verify whether or not:

“(b) all the information, studies and forms required by these regulations, including the annexes, are complete and attached;”

GRENLEC “studies” very broad. What type of studies, technical, EIA, etc.?

PART IV: SPECIFIC REQUIREMENTS AND CONENT OF APPLICATIONS

Page 18 “(7) The application shall be accompanied by:

“(a) the official legal document issued by the environmental authority approving the environment **and social** impact assessment study required for the activity or for the construction of electricity facilities mentioned in the application; and”

GRENLEC Add the words “and social” as indicated.

Pages 22 **20. Application for modification of a Licence**

(5) “In addition, if the application relates to a matter of significant public interest, the Commission may:”

“(a) convene a public hearing to hear opinions from all interested parties and authorities with regard to the extension proposed by the applicant, and”

GRENLEC “significant public interest” definition required.

GRENLEC The application for a modification of a licence calls for a public hearing, however this is not required for the application for a new licence. The granting of a new licence more so qualifies as a matter of significant public interest than the modification of an existing licence.

Page 24 **21. Application for extension of term of licence**

“(1) An application for the extension of the period of validity of a licence shall be subject to the following requirements:

 “(b) the extension that may be applied for, and granted, under this kind of application shall be for a period not exceeding five (5) years, except in the cases where the Commission recommends that a longer period would best achieve the objects and purpose of the acts.”

GRENLEC Extension of 5 years except in cases.... seems a short time for the recoupment of investments. Recommend at least 15 years.

PART V – EXEMPTION FROM THE OBLIGATION OF OBTAINING A LICENCE (APPLICATION FOR PERMIT)

Page 27 **22. Requirements for requesting an exemption from the obligation of obtaining a licence**

“(5) The decision of the Minister shall:

- (a) be made in writing;
- (b) be notified to the applicant;
- (c) be duly justified;
- (d) be published in the Gazette, **and**
- (e) inform the applicant about his/her rights to appeal the decision, including the kind of available appeals and terms for submitting any appeal.**

“(6)(a) **If the decision of the Minister is to grant the exemption the applicant will be granted a Permit.**”

“(6)(b) If the decision of the Minister is to refuse an application, or adopts a decision which differs from the recommendation of the Commission, such decision shall be duly justified, stating facts of the case and the corresponding legal reasons for such refusal, and notified to the applicant and to the Commission. The applicant will be informed of his/her right to appeal the decision, including the kind of available appeals and terms for submitting any appeal.”

GRENLEC The above changes are suggested to improve readability and so that a permit will be granted to self-generators as this seems to be omitted in the regulations.

PART VI – PROCUREMENT REQUIREMENTS APPLICABLE TO GENERATION AND NETWORK LICENCES

Page 30 26. Assessment of unsolicited proposals

“(2) Within ten (10) business days from the date of receipt of an unsolicited proposal related to the grant of a new network licence to transmit or to transmit, distribute and supply electricity, and which may involve the construction of new transmission or distribution systems or facilities, the Commission shall:

- (b) cause a notice of such application to be published in the Gazette and in its website;
- (c) solicit the opinion of other network licensees

(d) require the applicant to publish or cause to publish the prescribed notice....

GRENLEC (c) is missing.

Page 30-33 26. Assessment of unsolicited proposals

GRENLEC This entire section seems to only apply to network licences.

What about unsolicited proposals for generation licences?

Page 32-33 (5), (6)

GRENLEC “(5)” and “(6)” repeated numbering.

Page 34-35 27. Procurement methods: competitive tendering, selecting tendering or negotiated procurement

GRENLEC Would it not be better to cover Sections 27 through 37 in the Draft Generation Expansion and Competitive Procurement Regulations? These sections seem inappropriate for a licence document.

Page 37 31. Publications and other requirements of the procurement process

“(2) If the competitive tendering or of a selective tendering is regional or international, the information related to the procurement process shall be published:”

- (a) in ~~one~~ two newspapers of general circulation in Grenada; and
- (b) in two (2) newspapers of wide regional or international circulation.”

GRENLEC Not consistent with previous publication. Why publish in only one (1) local newspaper for international tender?

Page 40 36. Debarment from participating in procurement proceedings.

“(1) The procuring entity may debar a person from participating in the procurement proceeding where it is proven that such person-

- (a) has committed a prescribed offence under any act in force in Grenada;
- (b) has breached a public procurement contract to which he is party;
- (c) has, in procurement proceedings, given false information about his qualifications;
- (d) has refused to enter into a written procurement contract; or
- (e) is declared bankrupt.

GRENLEC Are there any time limits considering how long ago the offence or breach, etc. was committed? A list of the prescribed offences is needed.

ANNEX 1: FEES

Page 41 A- Application Fees

“The application fee due for each application submitted by the applicant, applicable to all kind of applications is equal to EC\$ 500 non-refundable. **There is a non-refundable application fee of EC\$500 due for each application submitted.**”

GRENLEC Suggest the wording be changed as indicated.

B-Licence Fees

| Type of Licence | Amount due in EC |
|--|-------------------------|
| Grant, modification or renewal of generation licence – electricity generation plant up to 1 MW | EC\$ 10,000 |
| Grant, modification or renewal of generation licence – electricity generation greater than 1MW and up to 10MW | EC\$ 20,000 |
| Grant, modification or renewal of generation licence – electricity generation between greater than 4 10MW and up to 20MW | EC\$ 30,000 |
| Grant, modification or renewal of generation licence – electricity generation plant from greater than 2 20 MW | EC\$ 40,000 |
| Grant, modification or renewal of a network licence which allows its holder to just carry out transmission of electricity | EC\$ 50,000 |
| Grant, modification or renewal of a network licence which allows its holder to carry out transmission, distribution and supply of electricity | EC\$ 100,000 |

GRENLEC Change made to cover the gaps between the generation capacity ranges in the above table. These are assumed to be the initial licence fees. There is no mention in the document of annual license fees any of the licences. There will be difficulty collecting annual fees if the regulations do not stipulate it. This section must be added as we note that Grenlec will be assessed annual license fees on both its generation and network license (in addition to the initial fees).

GUIDE – INSTRUCTIONS TO THE APPLICANTS

Page 44 Payment of the Application Fee

“Applicant must pay an Application Fee of EC\$ 500 which must be submitted with this Form.

GRENLEC To whom is the application fee made payable?

SECTION I

Page 52 SIGNIFICANT SHAREHOLDERS

“A list of all significant shareholders of the applicant and their respective ownership shares shall be provided. For the purpose of this application “significant shareholder” means any shareholder who owns or has voting rights of at least ~~20%~~ **10% (ten percent)** of shares in the applicant.”

GRENLEC See suggested limit for determining a “significant” shareholder. We further suggest that where such a shareholder is a corporation, the beneficial owner(s) of said corporation should also be listed.

PART FIVE: PLEDGE **DECLARATION BY THE APPLICANT**

GRENEC Suggest the word PLEDGE be changed to DECLARATION.

Submitted Without Prejudice to the Reservations of Rights herein