



REPUBLIC OF VANUATU

UTILITIES REGULATORY AUTHORITY (AMENDMENT) ACT NO. 12 OF 2013

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REPUBLIC OF VANUATU

Assent: 14/10/2013

Commencement: 04/11/2013

UTILITIES REGULATORY AUTHORITY (AMENDMENT) ACT NO. 12 OF 2013

An Act to amend the Utilities Regulatory Authority Act No.11 of 2007.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Utilities Regulatory Authority Act No. 11 of 2007 is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

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AMENDMENTS OF UTILITIES REGULATORY AUTHORITY ACT NO.
11 OF 2007

1 Subsection 1(1)

Insert in their correct alphabetical positions:

“**electricity producer** means a person who generates electricity for sale to a utility, and who is not a related entity to that utility;

least cost generation means the combination of electricity generation methods that provides the lowest overall cost for the consumers served by a particular utility;”

2 Subsection 12(2)

Renumber the subsection as “(3)”.

3 After subsection 12(1)

Insert

“(2) The Authority must exercise its functions in a way that considers the interests of, and impact on, consumers and utility businesses as well as any Government policy.”

4 After subsection 13(1)

Insert

“(1A) Subject to paragraph 2(a), the Authority may require a utility to do those things expressly required by the provisions of this Act.”

5 Paragraph 13(2)(a)

Repeal the paragraph, substitute

“(a) require a utility within a specified period, which must not be less than 21 days to furnish the Authority with specified information or documents, or information or documents of a specific kind, in the possession or control of the utility or any of its related entities relating to a regulated service or to corporate structure, accounts or finances of the utility; or”

6 Subsection 13(3)

Delete “individual”, substitute “employee, officer or delegate of the Authority”

7 At the end of section 15

Add

“(6) A person acting in compliance with a safety order issued under this

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section is not liable to any action, claim or demand on account of any damages, loss or injury sustained as a result of that action.”

8 Subsection 18(1)

After “charged”, insert “to consumers”

9 At the end of section 18

Add

“(4) The maximum price determined under subsection (1) in respect of the supply of electricity by a utility to a consumer must take into account least cost generation for that utility.”

10 After subsection 19(2)

Insert

“(3) In addition to subsection (1), the Authority may at the request of any party involved, assist to resolve any dispute between:

- (a) 2 or more utilities; or
- (b) a utility and an electricity producer; or
- (c) a utility and the Government,

if the parties are not able to resolve the dispute.”

(4) The Authority may require from a party to a dispute under subsection (1) or subsection (3), any information that will assist the Authority to resolve the dispute between the parties.

(5) A party to a dispute under subsection (1) or subsection (3) must provide the Authority with any information which the Authority may require from that party.”

11 Subsection 22(1)

Repeal the subsection, substitute

“(1) It is a defence to an offence under paragraph 21(1)(a) that the contravention was due to:

- (a) an accident and that reasonable precautions were made and due diligence was exercised to prevent such accident; or
- (b) an action in response to an emergency.”

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12 Subsection 27(1)

Repeal the subsection, substitute

“(1) A utility aggrieved by any action taken pursuant to Part 3 or section 24, 25 or 37 may within 30 days of the action being taken, give notice of grievance to the Authority.

(1A) A notice of grievance must be made in writing and must contain:

- (a) a detailed description of any facts or matters supporting the grievance; and
- (b) copies of any documents supporting the grievance; and
- (c) a detailed description of any alleged error of law or fact; and
- (d) a detailed description of any relevant changed facts or circumstances since the action being the subject of the notice.”

13 Subsection 27(2)

Delete “the merits of”, substitute “all evidence supporting”

14 Subsection 27(3)

After “days”, insert “of the date of notification under subsection (1)”

15 Section 34

Repeal the section, substitute

“34 Other reports

(1) The Authority may from time to time provide any Minister with such reports other than the annual report if the Minister requests a copy of such report.

(2) At any time, the Authority may inform any utility, consumer or other stakeholder of the status of any activity being undertaken that is relevant to that utility, consumer or stakeholder, including the planned timing of the next action with regards to that issue.

(3) The Authority must publish annually, a report on the use of any funds defined under any contract between the Government and a utility for the provision of a regulated service in Vanuatu.”

16 Schedule 1 – Part A (Powers conferred under subsection 20(1)), A2. Water

Delete “Article 29” under the column Function, power and responsibility corresponding to Schedule of Conditions to the Contract for the Management and

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Operation of the Water Supply Service in Port Vila.

17 Schedule 1- Part C (Functions and powers to which subsection 20(5) applies)

(a) Delete “paragraph 12”, “paragraph 14” and “paragraph 160” under the column Function, power and responsibility corresponding to the Concession contract for the Generation and Public Supply of Electric Power in Tanna Island, substitute “paragraph 11”, “paragraph 13” and “paragraph 159”.

(b) Delete “Article 29” under the column Function, power and responsibility corresponding to the Schedule of Conditions to the Contract for the Management and Operation of the Water supply Service in Port Vila.”