



# **DECISION**

## **Rules of Practice and Procedure 2008**

Document Ref: 2008/004/D

**INDEPENDENT REGULATORY COMMISSION**

**Decision**

**Electricity Supply Act No 10 of 2006**

This document sets out the Decision of the Independent Regulatory Commission **2008/004/D** – “**Rules of Practice and Procedure**” - taken by the Commission at its meeting on March 31, 2009.

The Commission now **ORDERS** that these Rules, made pursuant to Sections 40 and 41 of the Electricity Supply Act No 10 of 2006, will become effective on the date given below.

Effective date: April 1, 2009

By Order

.....  
**LANCELOT MCCASKEY**  
**EXECUTIVE DIRECTOR**  
On Behalf of the Commission  
April 1, 2009

**INDEPENDENT REGULATORY COMMISSION**  
**RULES OF PRACTICE AND PROCEDURE**  
**(Pursuant to S40 and S41 of the Electricity Supply Act 2006)**

**Principles which will guide the Independent Regulatory Commission in its decision-making process:**

**VISION**

To be numbered among the best regulators in the Caribbean by fairly balancing the interests of all stakeholders.

**MISSION STATEMENT**

The Independent Regulatory Commission is committed to acting in a transparent and predictable manner in order to ensure that the highest quality of electricity service is supplied to customers throughout Dominica at fair and reasonable prices while also maintaining the financial viability of the electric utilities and protecting the national environment.

**CORE CORPORATE VALUES**

In line with its vision and mission statement, the Commission commits itself to embrace the following core corporate values.

1. **Professionalism:** - The Commission shall uphold high standards of professionalism; and all members of the Commission and professional staff are expected to adhere to their respective codes of ethics.
2. **Predictability:** - The Commission shall follow clearly defined rules and regulations in the efficient and equitable delivery of its services.
3. **Integrity:** - The highest levels of integrity shall be expected in all transactions.
4. **Responsiveness:** - The Commission shall endeavor to be sensitive and expeditious in dealing with stakeholder concerns.
5. **Teamwork:** - The Commission shall at all times embrace teamwork, mutual cooperation, extensive consultation and appreciation of diverse perspectives in the discharge of its functions.

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## **INDEPENDENT REGULATORY COMMISSION (IRC)**

### **RULES OF PRACTICE AND PROCEDURE, 2008**

The Commission has adopted these Rules of Practice and Procedure to guide the administrative procedures related to its regulatory functions and decision-making.

#### **Preliminary**

In exercise of the powers conferred on the Independent Regulatory Commission (IRC) by Section 41 of the Electricity Supply Act 10 of 2006, the following rules are hereby made:

#### **PART 1 PROMULGATION AND APPLICATION OF RULES**

##### **Rule 1.1(a) Promulgation of these Rules**

Prior to the promulgation, amendment, repeal of these rules, the IRC shall:

- (1) Give at least (30) days notice of its intended action. The notice should include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The Notice will be published in a newspaper having general circulation as well as on the IRC's website or by any other means deemed appropriate for interested parties to be made aware of the intended decision.
- (2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, in writing, which the IRC may take into account. An opportunity for oral hearing may be granted if requested by any person likely to be affected by the decision, or by a Governmental body. The IRC shall consider fully all formal submissions, in written or oral format, respecting the proposed Rule. Upon the expiry of the notice period aforesaid and after having regard to the various responses received the IRC shall promulgate the Rule within such period as the IRC may determine.
- (3) No Rule promulgated hereafter shall be valid unless promulgated in compliance with these procedures, but no contest to a Rule on the grounds of non-compliance with these procedural requirements shall commence after six (6) months from its effective date.

### **Rule 1.1(b) Suspension of these Rules and Promulgation of New Rules.**

- (1) In the event of an emergency, the IRC, upon its own initiative and discretion, may suspend application of these Rules or any part thereof. Emergency Rules required by the IRC in the event of an imminent threat to the public health, safety, or welfare shall be adopted with less than thirty (30) calendar days notice. The IRC shall state its reasons in writing. A Rule so adopted may be effective for a period of not longer than (120) calendar days and renewable once for a period not exceeding (90) calendar days, but an identical rule may be adopted according to the procedures herein

### **Rule 1.2 Application of Rules**

These Rules will apply to all procedures and proceedings which fall within the purview of the IRC as authorized under the Act and any other applicable legislation.

The following are examples of matters to be governed by these Rules:

- Applications for Licences to provide a prescribed utility service or to own and/or operate a prescribed facility.
- Applications for amendment of Licences
- Procedure for revocation of Licences
- Applications for the approval of general tariff changes
- Applications for reconsideration of Commission Decisions
- Applications for approval of new or amended tariff categories
- Applications in relation to Consumer Complaints
- Formal and/or informal complaints by interested persons
- Applications for extension of deadlines regarding consultations, reconsideration, responses, etc.
- Treatment of confidential information
- Treatment of correspondence

### **Rule 1.3 Definitions**

**Purpose:** This Rule defines terms used in this document and adopts those definitions found in the Electricity Supply Act 10 of 2006, and all applicable legislation being in force during the tenure of these rules.

**“The Act”** means the Electricity Supply Act 10 of 2006

**“ADR”** means any procedure for alternative dispute resolution including, in particular, mediation.

**“Applicant”** means any person, as defined herein, or public utility on whose behalf an application is made.

**“Board”** means the Board of the Independent Regulatory Commission.

**“Chairman”** means Chairman of the Board of the Independent Regulatory Commission.

**“Commission”** means the Independent Regulatory Commission established by the Electricity Supply Act 10 of 2006.

**“Commission Staff”** means all personnel employed by the Independent Regulatory Commission whether on a permanent or contractual basis.

**“Commissioner”** means an appointed member of the Board of the Independent Regulatory Commission.

**“Complainant”** means any person who files a complaint with the IRC.

**“Confidential Information”** means any information classified and marked as such and includes information that a reasonable person would regard as confidential, having regard to the nature of the information, such as material or documents relating directly to specific customers; employee-sensitive information; marketing analyses or other market-specific information relating to services offered in competition with others; reports, work papers or other documentation related to work produced by internal or external auditors or consultants; strategies employed, or to be employed, under consideration in contract negotiations.

**“Days”** means business days unless specifically stated otherwise.

**“Docket”** means a file containing all documents, materials and correspondence pertaining to a particular proceeding.

**“Declaratory Order”** means stating and clarifying something especially a legal right, status decree or judgment

**“Electricity Service Provider”** means any entity offering electricity services for sale.

**“Executive Director”** means the Executive Director of the Independent Regulatory Commission.

**“Exhibit”** means any material put in evidence to support a particular assertion.

**“Licence”** means a licence issued pursuant to the Electricity Supply Act 10 of 2006 and “Licensee’ shall be construed accordingly.



**“Licensing”** includes the regulatory process in respect of the procedure for receiving applications for, evaluating and granting licences.

**“Oath”** means attestation by a person signifying that he or she is bound in conscience and by the laws regarding perjury, either by swearing or affirmation to tell the truth.

**“Motion”** means an application made orally or in writing and in proceedings to the IRC for an order .In most cases a party must normally serve a notice of motion on the opponent warning of the intention to move to the IRC.

**“Minister”** means the minister having portfolio responsibility for the Independent Regulatory Commission as created and defined by the Electricity Supply Act of 2006.

**“Party”** includes any applicant, complainant, petitioner, respondent, intervenor or public utility in proceedings before the Commission.

**“Person”** means a natural person or a legal entity.

**“Price control mechanism”** shall mean the formula or procedure set out in licences or other enabling instrument (including IRC Decisions) for the adjustment or resetting of the rates and tariffs for regulated electric utility services.

**“Proprietary information”** means trade secrets and private technical, financial and business information.

**“Proceeding or Proceeding before the Commission”** means any matter that is before the Commission for a decision and for which a docket has been opened.

**“Regulated Entity”** means any person who, by virtue of an enabling instrument or enabling legislation, is made subject to the jurisdiction or controls of the Commission as respects the provision of electricity services.

**“Rule”** means these rules as whole or individual rules in which the word appears or rules prescribed within the Act or any applicable legislation, or regulation.

**“Schedule”** shall mean any attachment, table, supplement, list, output, or any other document affixed to an exhibit.

**“Tariff”** means any publication containing rates, charges, rules, regulations, conditions, specifications or requirements relating in any way to the furnishing by a regulated company of specified services or facilities to any person.

**“The IRC”** means the Independent Regulatory Commission as created and defined by the Electricity Supply Act 10 of 2006.

## **Rule 1.4      The Independent Regulatory Commission**

### **(1) Description and Organization**

The Independent Regulatory Commission is a body corporate as constituted by the Electricity Supply Act 10 of 2006. The Commission is headed by a Board appointed by the Minister, which is authorized to exercise and perform the powers and duties conferred on the Commission. The Minister appoints one of the members as Chairman. The Executive Director, who is appointed by the Board subject to the approval of the Minister, is the Chief Executive Officer with the responsibility for managing the day – day – affairs of the Commission.

### **(2) Commission's contacts**

The IRC's contacts for the time being are:

Location: 42-2 Independence Street, 3rd Floor

Mailing Address: Post Office Box 1687, Roseau, Dominica

E mail: [ircdominica@gmail.com](mailto:ircdominica@gmail.com)

Website: [www.ircdominica.org](http://www.ircdominica.org)

Phone: (767) 440-6634; Fax: (767) 440-6635

All communications to the IRC may be addressed to the Executive Director. Specifically, all Communications that are official documents for the attention of the Commission, filings or matters of similar import are to be addressed to the Executive Director.

### **(3) Business Hours**

The Commission's office is opened to the public from Mondays to Fridays between the hours of 8:00 a.m. to 4:00 p.m. excepting Public Holidays.

For the purpose of filing official documents and receipt of correspondence, business hours are from 9:00 a.m. to 3.00 p.m., Monday to Friday excepting Public Holidays. Any official documents or filings received after 3.00 p.m. will be deemed to have been received on the next business day.

### **(4) Public Information**

Access to records of the IRC shall be granted in accordance with the relevant statutory provisions or these Rules relating to Confidential Information.

## **(5) Records of the IRC**

- i. A Docket system shall be maintained on every Proceeding before the Commission.
- ii. A docket containing every matter requiring formal action by the IRC shall be maintained in a secured filing system.

The docket shall be a public record (subject only to the confidentiality provisions) available for inspection during business hours or may be inspected in electronic form on the IRC's website, or may be obtained via facsimile. Charges for photocopies will apply where applicable.

## **(6) Communicating with the Public**

The IRC will, as a matter of policy, communicate with the public through any or all of the following media:

- (i) Notices published in the Gazette
- (ii) Notices published in newspapers of general circulation
- (iii) Notices posted to its official website:
- (iv) By direct communication to affected parties

## **PART 2      ACTIONS AND PROCEEDINGS**

Pursuant to Sections 40. (j) and 40. (k) of the Act, the Commission shall, in its discretion, adopt any one or combination of the following consultative processes, the applicable rules of each are set out in **Part 3** “Forms of Consultation”, in the formulation of its decisions:

- i. Public consultation utilizing Consultative Documents
- ii. Notice of Proposed Rulemaking (NPRM)
- iii. Notice of Inquiry (NOI)
- iv. Exchange of Correspondence
- v. Negotiated Settlements
- vi. Public Hearings
- vii. Appearances before the Commission

The following may initiate regulatory proceedings by the IRC:

### **Rule 2.1      Applications for Regulatory Action**

Requests for IRC action may be submitted by way of the relevant application forms, letters, telephone, e-mail or orally, in person. Requests should clearly set out the facts relied upon and the relief sought, the statutory authority (if any) under which the request is filed and the interest of the person submitting the request. This Rule shall apply to applications under Rule 1.2.

### **Rule 2.2      Application Procedures**

Applications for regulatory action are to be submitted to the IRC in respect of the matters listed below:

#### **(1)      Licences**

- (a) Applications for the grant of Licences pursuant to the Act
- (b) Applications for amendments to Licence Conditions pursuant to the Act

#### **(2)      Tariff Filings**

The arrangements and procedures for tariff filings are set out in Sections 23 and 24 of the Act. These may be reinforced in Licences, but where not specifically addressed in Licences, these Rules will apply.

**(3) Complaints**

(i) General Complaints – Where a person or an electricity service provider feels aggrieved by virtue of a perceived violation of any statute, rule, order or decision which is within the IRC’s jurisdiction, that person may file a complaint with the IRC. The IRC in its discretion may apply any of the procedures available to it under these rules.

(ii) Customer Complaints – where a person, who is a customer of a regulated entity, feels aggrieved by a decision taken by the regulated entity in response to a specific complaint made by the individual, that person may file a complaint with the IRC. In these circumstances, the IRC will apply the rules and procedures specifically applicable to “Customer Complaints”.

## **PART 3      FORMS OF CONSULTATION**

### **Rule 3.1      Procedure before the Issuance of Decisions and Orders**

The IRC shall, before issuing a final Decision or Order, consult through a formal or informal process, with the parties most likely to be affected by the Decision or Order.

### **Rule 3.2      Consultation Processes**

- a. Public Consultation utilizing Consultative Documents
- b. Notice of Proposed Rulemaking (NPRM). The IRC may issue an NPRM which contains proposed changes to the IRC's rules or which sets out the IRC's indicative position on a particular subject matter, and request public comment on the proposals contained therein.
- c. Notice of Inquiry (NOI): The IRC releases an NOI for the purpose of gathering information about a subject matter or as a means of generating ideas on a specific issue. NOIs are initiated either by the IRC on its own initiative or after consideration of a third party request.
- d. Exchange of Correspondence: The IRC may in its discretion determine that an exchange of correspondence amongst contending parties may be sufficient in allowing the IRC to analyze and resolve an issue in dispute and requiring an IRC decision.
- e. Public Hearings/Meetings: The Commission as a part of the consultation process associated with the utilization of Consultative Documents or NPRM (referenced above) may convene public hearings/meetings where it will have the opportunity to hear stakeholder discussion on the issues under consideration
- f. Appearances before the Commission: Under certain circumstances, the Commission may invite contending parties to appear before it to present arguments as to the merits of their respective cases.

## **PART 4 PROCEEDINGS BEFORE THE COMMISSION**

The Commission sits as an impartial, independent body, and renders independent decisions affecting the public interest and private rights based on the applicable law and the evidence presented by the parties. The Chairman or a Commissioner shall preside over the relevant meetings and, in the event that an “appearance before the Commission” is deemed necessary, shall constitute the requisite quorum at such hearings provided that the concurrence of a majority of the Commission shall be required for the rendering of a decision. At such hearings, the Commission may not be bound by technical rules of evidence.

Matters of an emergency nature requiring consideration by the Commission as for instance, an issue that poses an imminent threat to the public health, safety, the environment or public welfare, shall also be subject to this process. In such circumstances, the Commission shall take cognizance of the emergency nature of the issue and implement an expedited process as the circumstances warrant.

### **Rule 4.1 Commencement of Proceedings before the Commission**

#### **Rule 4.1(a) Initiation of Proceedings**

Proceedings for a matter before the Commission may be initiated upon the occurrence of any of the following events:

- (a) An initial petition, application or complaint is filed seeking relief under statutory or other authority;
- (b) Notice of a formal consultation utilizing consultative documents.
- (c) A Notice of Proposed Rulemaking (NPRM) by the Commission
- (d) A Notice of inquiry (NOI)
- (e) Informal and Formal Complaints from consumers;
- (f) The initiation of an investigation pursuant to the powers granted to the Commission pursuant to Section 39 (1) of the Act

#### **Rule 4.1(b) Form of Application and its Content**

Applicants seeking relief under statutory or other authority shall comply with the requirements of these rules and include the following information where such information has not previously been filed with the Commission:

- (a) The legal (and other) name of each applicant, a brief description of each applicant, the street and mailing address, each applicant's electronic mail address, fax number and telephone number.
- (b) A certificate of good standing for corporate entities.
- (c) For foreign corporations, a Certificate of Registration from the Trademarks and Companies Office of Dominica.
- (d) If applicant is a partnership, a copy of the partnership agreement.
- (e) If applicant has a trading name, a copy of the registration of the trading name.
- (f) The name, title, address and telephone number of the person to whom correspondence, communications and orders and decisions of the Commission are to be directed, if other than the applicant's legal counsel.

## **Rule 4.2 Hearings**

The Commission will adopt varied modalities, at its discretion, to consult with and hear stakeholders' views on a particular matter in its process towards a decision. These hearings form part of the general consultations of the Commission and complement the procedures related to the issuance of written consultative documents. The Commission may also at its discretion, have oral hearings to consider specific issues raised by any stakeholder on which a decision of the Commission is being sought. These hearings referred to as "Public Hearings" may be organized as public meetings at locations remote to the Commission's offices or at the Commission's offices. In some circumstances, the consideration of a matter may have to conform to a more formal procedure where the parties to an issue are summoned to "Appear before the Commission".

### **(i) Public Hearings**

The Commission may convene Public Hearings or otherwise afford the affected parties an opportunity to be heard to aid in its decision-making. Such hearings shall be convened at the discretion of the Commission but at which hearing, the proceedings shall be recorded and such record made available, on request, to all interested parties. In such proceedings, the Commission shall invite stakeholders comprising the Regulated Entity, other interested parties and members of the public to make oral presentations. Notwithstanding the foregoing, stake holders may support oral presentations with written submissions. The Commission shall have regard to relevant presentations in the formulation of its subsequent decisions.

### **(ii) Appearances before the Commission**

The Commission may convene Hearings where the parties to the matter are summoned to "Appear before the Commission" to argue the case orally. In such



circumstances, petitioners and interveners will be required to provide written depositions and be subjected to the process of disclosure and other procedures to ensure full transparency and compliance with the rules of natural justice. Such hearings shall be convened at the discretion of the Commission and shall be heard by a panel of at least three commissioners sitting together.

## **PART 5      PROCEDURES FOR MEETINGS OF THE COMMISSION**

The Commission makes rules to govern the conduct of its meetings pursuant to Section 15 of the Act. These are set out as Procedures at Schedule 7.

## **PART 6 FORM AND COMMUNICATION OF COMMISSION DECISIONS**

### **Rule 6.1 Procedures for Communicating Commission Decisions**

1. The Commission will as a matter of policy maintain a current update, both on its website and at a point accessible to the public within its premises, of:
  - Notice of all current consultations including timetable for responses;
  - Notice of all pending decisions indicating the date on which the Commission will make its decision;
  - Notice of any change in the date and schedule of issues for decisions previously published;
  - A list of all decisions taken by the Commission over the last sixty (60) days
2. Notice of all decisions taken shall be made public within five (5) days of the date the decision is taken. Such a notice shall indicate the date on which the decision was taken and the date it becomes effective. If the written decision is not available, the Notice will also specify when the written decision will be made public.
3. The Commission may also undertake to otherwise supplement the above process by publishing schedules of its agenda of regulatory activities in the print media and on its official web site, but the publication of such schedules shall be entirely at the Commission's discretion and will not impose a binding obligation on the Commission.

### **Rule 6.2 Form of Communication of Commission Decisions relating to Individuals**

- (a) The Commission shall issue decisions in writing and any related Orders shall be issued as soon as practicable thereafter, but in any event no later than 30 days after the Decision is issued.
- (b) Decisions of the Commission may be served by mailing a certified copy to all parties of record who have provided contact details.
- (c) The Commission may issue an electronic copy of each Decision and/or Order where parties have provided their electronic mail address.

**Rule 6.3 Form of Communication of Commission Decisions Relating to Regulated Companies Generally**

Decisions of the Commission shall be communicated in writing to the Regulated Entity that is directly affected by the decision. Notice of the decision will be published in the Gazette and/or the print media indicating that the decision of the Commission relating to the particular subject matter is available on the Commission's official website and at the Commission's offices.

The Commission may at its own discretion circulate Decisions and /or Orders to other affected parties by e-mail or other means.

Interested parties shall be deemed to have been duly notified of such decision on the date of such Notice appearing in the print media.

**Rule 6.4 Declaratory Orders**

The Commission may within its discretion, issue a declaratory order regarding the applicability of any rule, regulation, or statute enforceable by it, to terminate a controversy (other than a contested case) or to remove uncertainty, upon written submission of an interested person or on its own initiative.

A declaratory order shall be binding between the Commission and the petitioner as to a particular set of facts and circumstances unless such order is altered or set aside by a court.

The Commission may in its discretion, decline to issue a declaratory order and will not consider requests based upon hypothetical facts, past transactions, or unnamed parties.

The Commission may, where it considers it appropriate, issue addenda clarifying its decisions from time to time.

## **PART 7      ALTERNATE DISPUTE RESOLUTION (ADR)**

This rule establishes procedures which will allow parties to utilize Alternative Dispute Resolution (ADR) methods in order to resolve specific issues or the entire matter in dispute. This does not preclude the parties from exercising their rights under the Act or any other statutes, regulations or rules. In considering matters up for ADR, where applicable, the Commission shall have cognizance of the Confidentiality Provisions under **Part 9** of these rules.

The Commission will consider ADR where a negotiated solution is an acceptable outcome. These ADR procedures are supplementary to the Commission's general adjudicative powers and procedures.

### **Rule 7.1      Settlement Negotiations**

- a. Parties to a dispute may apply to the Commission for an appointment for a settlement and such application shall contain:
  - i. A statement that all parties agree to the procedure;
  - ii. A list of issues to be addressed or matters the parties wish the presiding Commissioner to aid them in resolving;
  - iii. A description of the issues of each party;
  - iv. A date by which a settlement will be reached or settlement negotiations under this procedure will end;
- b. Upon approval of the application, the Commission shall issue an order scheduling a settlement conference and assign a Commissioner to participate in the negotiations.
- c. The negotiations and statements of the parties or attorneys made at the settlement conference shall be off the record and shall not be made a part of an official case.
- d. If a settlement is not reached before the date specified by the parties in their application, the procedure shall end unless the parties agree to an extension and the procedure is extended by an order of the Commission.

### **Rule 7.2      Mediation**

- a. The Commission may facilitate the mediation process in a complaint case before any further proceeding in such case.

- b. As the Commission deems appropriate, mediation services may be provided by a Commissioner or by a neutral third party appointed by the Commission for the purposes of identifying the issues and attempting a solution.
- c. A written application for mediation by the Commission, should include the names of each party and a brief explanation of the matter
- d. The mediator, if presiding over a case, shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the settlement or mediation discussing the case to any member of the Commission appointed to preside over the case
- e. The Commission may recommend that parties engage in alternative dispute resolution with a qualified mediator.

## **PART 8 RECONSIDERATION OF COMMISSION DECISIONS**

### **Rule 8.1 Review of Administrative Decisions**

Petitions for reconsideration of a decision issued by the Commission may be filed pursuant to the Act or “by virtue of these Rules” or other enabling instrument.

Applications for reconsideration of a Decision or Order of the Commission may be made by persons adversely affected by the Decision or Order and shall be filed within thirty (30) calendar days of the Date of Notice being given of the Decision or Order. The Petition shall provide full and detailed particulars to support the petition and shall be in such detail to enable the Commission to take a decision on the matter.

Unless provided for elsewhere in applicable legislation or other enabling instruments the following may constitute grounds for a reconsideration of its decision:

1. Newly discovered facts or evidence which, by due diligence, could not have been discovered while the matter was being considered by the Commission;
2. Fraud, misrepresentation, or other misconduct of an affected party;
3. A prior order on which the order is based has been reversed or otherwise vacated, or it is no longer equitable that the order should have prospective application; or
4. Any other reason justifying relief from the operation of the order.

The Commission shall, where a petition for reconsideration is made:

1. issue an acknowledgement of the application within five (5) days of receipt of the request.
2. publish a notice of the application for reconsideration in a newspaper having wide circulation and on the Commissions web site within five (5) days of receipt of the application. The Notice will invite comments on the application and request that these be submitted within ten (10) days of the publication of such notice;
3. issue its decision within thirty (30) calendar days of receipt of the petition.
4. upon the grant or denial of the application, publish a Notice to all parties of the decision on the application for reconsideration.

## **PART 9      CONFIDENTIAL AND PROPRIETARY INFORMATION**

### **Rule 9.1      Procedure for receiving and handling confidential information**

This rule shall apply in conjunction with the applicable statutory provisions dealing with the treatment of confidential information and secrecy.

All information submitted to the Commission shall be treated as being of a public nature unless the party marks such information as confidential

Where a document is filed with the Commission by a person in relation to any proceeding, the Commission shall place the document on the public record unless the party filing the document asserts a claim of confidentiality at the time of such filing.

Any material submitted by a person, that it claims is confidential or proprietary, shall be filed and identified in accordance with these rules. The claim of confidentiality must be supported by reasons why the material should be accorded confidential treatment.

The Commission shall deem such material confidential and proprietary after due consideration of applicable statute.

### **Rule 9.2      Procedure for disclosure of confidential information**

Any party wishing the public disclosure of a document in respect of which there has been a claim for confidentiality may file with the Commission:

- (a) a request for such disclosure setting out the reasons there for, including the public interest in the disclosure of all information relevant to the Commission's regulatory responsibilities; and
- (b) any material in support for the reasons for public disclosure.

Where the Commission of its own motion requests that a document be placed on the public record, the party claiming confidentiality shall have ten (10) days to file a reply, unless the Commission otherwise determines that a longer time period is applicable.

The Commission may dispose of a claim for confidentiality on the basis of the documentation filed or may, if it considers such procedure to be just and proper refer the matter to a separate proceeding before the Commission; for which purpose the Commission will invite the parties to make an appearance before it.

Where the Commission is of the opinion that, based on all the material before it, no specific direct harm would be likely to result from the disclosure, or where any such specific direct harm is shown but is not sufficient to outweigh the public interest in



disclosing the document, the document shall be placed on the public record. Before placing the information on the public record the Commission shall give the affected party shall be given not less than ten (10) days notice of its intention. If the affected party is aggrieved by the decision of the Commission to make confidential information public it may within ten (10) days file for a reconsideration of the decision pursuant to Rule 8.1.

Where the Commission is of the opinion that, based on all the material before it, the specific direct harm likely to result from public disclosure justifies a claim for confidentiality, the Commission may:

- (a) order that the document not be placed on the public record; or
- (b) order disclosure of an abridged version of the document.

**PART 10      RULES AND PROCEDURES APPLICABLE TO MONITORING  
AND ENFORCEMENT OF COMMISSION DECISIONS/ ORDERS**

**Rule 10.1      Monitoring and Enforcing Decisions/Orders**

1.     The Executive Director is assigned the responsibility for monitoring and enforcement (“the Assigned Functions”) of:
  - (i)     Licence obligations
  - (ii)    The terms and conditions under which regulated entities have been authorized by applicable law to operate

Decisions issued from time to time to the regulated companies

2.     Licence obligations take varying forms and include, inter alia attainment of performance milestones set by the Commission in its decisions/directives as well as compliance with specific terms and conditions of particular licensing instruments and statutes.

**Rule 10.2      Procedure for enforcing Decisions/Orders**

In order to ensure that enforcement actions are pursued with alacrity, efficiency and accuracy with respect to decisions issued by the Commission the following procedure shall be followed:

- (i)     Decisions of the Commission shall be translated into Orders, pursuant to Section 41 of the Act, as appropriate, within fifteen (15) days of issuance of the Decision and issued to the affected party
- (ii)    The Executive Director shall keep a record of and track all compliance data in respect of each Decision issued by the Commission and shall cause the enforcement action to be initiated, by reference to Legal Counsel, when the relevant service provider is in breach thereof.
- (iii)   The Legal Counsel shall cause the Enforcement Order to be served on the offending party which service shall record the date and time of delivery and the name of the party accepting service thereof.
- (iv)    The Legal Counsel shall ensure proper filing and circulation of the relevant order to all relevant parties.

- (v) Upon the issue being heard and a decision being made by the Court the Legal Counsel shall communicate the Court's judgment to all relevant parties.

**Rule 10.3 Annual Statutory Regulatory Return**

All Licensees shall complete the **Form No. Gen/AR 1** annually and submit to the Commission (Attention: Executive Director) within sixty (60) calendar days of the end of the Licensee's fiscal year.

**PART 11      ADOPTION OF FURTHER RULES AND PROCEDURES  
                  APPLICABLE TO THE SECTOR**

From time to time, the Commission will take decisions which will have effect and applicability under these Rules of Practice and Procedure. Rules formulated out of these Decisions/Orders will be included (or deemed to be included) as appropriate in this section.

## **SCHEDULES**

## **SCHEDULE 1      PROCEDURES FOR CONDUCTING PUBLIC CONSULTATIONS**

### **Written Documents and Other Means of Consultation**

Important issues that arise in the regulation of utility industries must be addressed by the Commission in a manner which is transparent, inclusive, non-discriminatory and demonstrably accountable. . The publication of Consultative documents and the public consultation processes that ensue are the primary methods by which the Commission discharges its responsibilities towards achieving these hallmarks of good governance.

The Commission shall publish a public discussion paper (Consultative Document) in which it:

- a.* brings to public attention important issues relating generally to utility regulation or to specific issues in the sector or of the Regulated Entity to promote public understanding and debate;
- b.* puts forward options and/or proposals as to the approach to adopt in dealing with these issues and to seek to resolve them in the best interests of consumers and society at large;
- c.* invites comments from the general public and from other interested parties, such as consumers, service providers, businesses, professionals and academics.

Depending on the context, on some issues the Commission shall set out what it regards as the available options without an indication as to what it regards as the favoured or proposed approach. On other issues the Commission may set out a clear preference for a particular approach and invite comments on this basis. The issue at hand will influence the nature of the document and its contents.

The views and analysis set out by the Commission in said Consultative Document shall be for discussion purposes, and so are not final. The purpose of the Consultative Document is to invite comments and evidence to be supplied, which may assist the Commission in the formulation, and, if needs be, revision of its views. The Consultative Document may include a series of specific questions upon which the Commission is seeking particular comments. In the event that the Commission considers it appropriate, respondents may wish to address other aspects of the document for which the Commission has not prepared any specific question. In the event that respondents may only wish to answer some of the questions posed – failure to provide answers to all questions will in no way reduce the consideration given to the response.

Following careful consideration of the responses and, if necessary, undertaking additional analysis and evidence gathering, the Commission shall publish a further document in which it provides comments on the responses. On major

and/or complex issues, this may be another Consultative Document with a view to inviting comments on matters not fully explored in the first Consultative Document. Once the Commission has gathered all responses on all relevant aspects of the issue and has completed its analysis, it shall publish a Decision/Statement or Policy Position paper with an explanation of the basis for its judgment.

The gathering of responses to and additional views on Consultative Document may be supplemented by other means such as:-

- public hearings;
- public meetings, seminars or workshops;
- individual meetings between interested parties and IRC staff;
- working groups of representatives of service providers, and/or;
- consumers to address specific questions; and
- consultation with independent advisers.

The extent to which the above methods will be used will depend in part upon the nature, complexity and importance of the issue at hand. Meetings that are held should make a constructive contribution to the resolution of the regulatory issue. As far as is possible a written record of the meetings should be kept. Individual meetings with specific interested parties may be useful in order to clarify the Commission's understanding of the arguments in a particular response. Where there are technical (engineering, accounting, economic or other) issues that are in dispute, discussions in working groups, chaired by a member of staff of the Commission, will be utilized to resolve the issue.

The Commission's approach will be to use published documents and written responses as the main means of consultation. The Commission shall consider supplementing this process by some or all of the other mechanisms mentioned above on a discretionary basis, depending on the nature of the regulatory issue but at all times being guided by the principle to garner the widest possible range of views on the matter under consideration.

### **Transparency and Accountability of the IRC**

The Commission will explain the basis for its decisions and the factors influencing its position in a given matter through its published documents and will report on the major views received by the Commission in the preceding consultation period. In some cases, new evidence or analysis presented to the Commission may cause it to modify its views. In the interests of transparency and accountability, the reasons for such modifications will be set out and, where the Commission disagrees with major responses or points that were commonly made, it shall explain why.

In the interests of stimulating public debate, the Consultative Document shall be made available free of charge by the Commission. In addition to printed copies, consultative documents will be available on the Commission's website [www.ircdominica.org](http://www.ircdominica.org).

During the consultative process, the IRC endeavours to use the most efficient means of distribution to ensure that consumers and interested parties, that might be affected by the decision on the regulatory issue under consideration will have access to the Consultative Document.

### **Transparency of Responses**

The Commission shall through its Consultative Documents, endeavour to stimulate public debate on the important regulatory issues on which it is seeking views. The comments, analysis and evidence supplied by respondents are a vital part of that public debate. Transparency of the consultation process, therefore, goes beyond the Commission making public its own views and analysis. In order for the public debate to be properly transparent, the responses made to the Commission's documents shall be made publicly available.

The availability of responses will ensure that respondents have an opportunity to avail themselves of the comments and views put forward in other responses, with which they may take issue. The Commission therefore encourages respondents to its Consultative Documents to publish their own responses, where they have the resources and means to do so. In light of the fact that many respondents may not have the facilities to publish documents; the Commission shall keep all responses on files, which will be available for viewing and copying on request in accordance with the Commission's policy.

Some information that respondents may wish to supply to the Commission in support of their position may be regarded by them as confidential. Respondents who do not wish parts of their response to be made available for public viewing should indicate this clearly on their response. Respondents are requested to place the confidential information and any supporting discussion that is also confidential in a separate Annex, in order for the remainder of the response to be made available and to minimise the possibility of inadvertent release of such information.

Some respondents may wish to go beyond keeping certain sensitive data confidential and may wish to make their whole response confidential, including their opinions, analysis and other comments. In such cases, the Commission shall require respondents to mark as confidential only such information that is truly confidential and not to seek to limit the free exchange of ideas and opinions that are germane to public debate and the consultative process. Respondents should note that the Commission in its deliberations may place less weight on those parts of responses supplied on a confidential basis. This is so because such parts of responses will not be subject to public scrutiny and so the opportunity would not be given to others to rebut, disagree or comment.



In unusual circumstances, where the Commission is of the opinion that it is not in the public interest for a particular response to be kept confidential, it may set aside the request of the respondent for confidentiality, pursuant to the Rules of Procedure regarding confidential information (Part 9). This may occur if there appears to be a clear abuse of the confidentiality marking, e.g. the supply of information critical to informed debate or the opinions of major players being submitted on a confidential basis in cases where this is unwarranted.

### **Comments on responses**

The Commission's consultative process will allow for a specific period for respondents to view other responses and to make comments on them. The replies may take the form of either correcting a factual error or putting forward counterarguments.

### **Arrangements for viewing responses**

The following arrangements shall apply for those who wish to view the (non-confidential) responses that the Commission has received. Such individuals should make an appointment by contacting the Commission's office or the individual named in the relevant document, by one of the following means:

Addressee:  
Telephone: 767 440-6634  
Fax: 767 440-6635  
E mail: [ircdominica@gmail.com](mailto:ircdominica@gmail.com) OR [admin@ircdominica.org](mailto:admin@ircdominica.org)

Or the person named in the relevant document

At the pre-arranged time the individual should visit the Commission's office. Interested parties may request photocopies of selected responses for which the IRC will charge a price, which will reflect the cost to the Commission of its photocopying facilities. Copies may also be ordered by post by sending a cheque, for the requisite amount, made payable to "Independent Regulatory Commission".

## Timetable of Consultations

To a large extent the timetable of the consultation process will depend upon the nature and complexity of the regulatory issue under examination. Table 1 shows the Commission's guidelines for the period of time generally to be allowed for various stages of the consultation process. Each Consultative Document will set out the specific timings that relate to the consultation process that it initiates.

**Table S1.1**  
**Guidelines on Timetable of Consultations**

<b>Event</b>	<b>Timing</b>	<b>Comment</b>
Responses to Consultative Document	Two to six weeks	A deadline at the bottom end of the range may be chosen if the regulatory issue is relatively straightforward or specific to a small set of interested parties.
Comments on responses	Two to four weeks after the closing date for responses	The time allowed will depend upon the nature of the consultation, e.g. longer if a larger number of responses are expected.
Statement on Second Consultative Document	One to six months after the close of comments on responses	A longer period for subsequent consideration will be needed, the greater the volume of responses received, or the more complex the issue, or the greater the additional analysis and evidence gathering required.

**Table S1.2**

**Guidelines on Timetable for Notice of Proposed Rule Making (NPRM)**

<b>Event</b>	<b>Timing</b>	<b>Comment</b>
Response to NPRM document	2 – 4 weeks	A deadline at the bottom end of the range may be chosen if the regulatory issue is relatively straightforward.
Comments and responses	Normally none but 1-2 weeks at the Commission's discretion	Normally, there would be no second statement but if the Commission feels that the responses are such that the public interest would be best served, it may at its discretion issue a second statement.

## SCHEDULE 2            PROCEDURES FOR HANDLING CUSTOMER COMPLAINTS

(Refer to Commission Decision - Document Ref: 2008/003/D)

### **Basic Procedures for Handling Customer Complaints**

In the event that a customer has a dispute of any kind with the company, it should first be referred to the company for resolution.

The company is expected to handle the complaint in accordance with its own complaints handling procedures, until the process is exhausted.

In the event that a complaint is not resolved by way of the relevant utility company's complaints handling process within a reasonable time (30 days) the aggrieved customer may refer the matter to the Commission.

A customer who is dissatisfied with the outcome of his complaint to the company may refer the matter to the Commission.

Consumer contacts to the Commission are classified in the following manner:

- a. **Enquiries** are any consumer contact requiring verification/confirmation of any information relating to a utility service, utility service provider and /or practice etc.
- b. **Opinions** are any contact wherein the consumer is expressing a view about the actions, practice or terms of service etc of a utility service provider.
- c. A **Referral** is any contact wherein the consumer who has been advised by the IRC to consult the relevant utility company because they either had not reported the matter to the utility company, or had not sufficiently utilized, or exhausted the utility's complaint procedure prior to presenting a matter to the IRC.
- d. **Complaints** involve any consumer expressing dissatisfaction in the manner in which a matter, in relation to the terms of service, practice or action of a utility service provider or its employees was dealt with, after utilizing the utility's complaints process.

The Commission shall make a determination as to the classification of the contact based on the information provided by the customer.

The utility company also has the right to refer complaint matters to the Commission.

The Commission will accept contacts from consumers via fax, e-mail, local post, telephone and in person.

Upon acceptance of a complaint, an assessment is made of the IRC's jurisdiction with regards to the material facts of the matter and whether the utility's complaints procedure have been fully pursued and exhausted.

In the event that, it is ascertained that the IRC has the relevant jurisdiction, the Commission begins the informal complaints resolution process. Consumers are required to provide the Commission with detailed information including the specifics of the complaint, the nature and the extent of the injuries sustained and reasons for dissatisfaction with the utility's resolution of the complaint.

Accounts shall not be disconnected for amounts outstanding under dispute, while a complaint is being investigated by the IRC. The customer will be required to settle, discharge or pay all bills that are not the subject matter of the dispute.

Upon initiation of investigation, the consumer shall be advised by way of an *Acknowledgment* communicating that the matter has been accepted for investigation and that the IRC shall endeavour to complete its investigation within thirty (30) business days.

In the event that an investigation is likely to go beyond the thirty (30) day period, the consumer will be advised accordingly with reasons as to the status of the complaint and giving a commitment as to when the investigation is to be completed.

Within five (5) business days of the receipt of the complaint, the Commission shall prepare and send a *Case* letter to the General Manager of the utility company. This *Case* letter shall outline the customer's grievance as well as request that the utility respond addressing the issues raised and providing supporting documentation that will enable the Commission to conduct the investigation.

Utility companies will have five (5) business days to acknowledge receipt of a *Case* letter and ten (10) business days to respond to the matter in writing. Such response shall be supported by the necessary evidence to justify the utility's position in the matter. In the event that the company has difficulties providing the information requested, a formal application should be made to the Commission requesting an extension prior to the expiration of the initial five (5) day period. Such extensions shall not normally be granted for more than ten (10) additional days.

Where applicable, the utility company may be required to provide an explanation as to why the customer's complaint had not been addressed when it was first brought to their attention by the customer.

Where applicable and depending on the nature of the complaint, a site inspection may be carried out by the Commission utilizing such staff of the IRC or contracted experts, as

appropriate, who may visit the relevant site/scene in order to obtain further and better information and particulars.

Upon receipt of all relevant documents and information, provided and relevant to the complaint, the matter shall be subjected to evaluation and analyses by the Commission.

Upon completion of the analysis, the Commission shall make a decision on the matter. In the event that the IRC is of the view that the Utility's actions were appropriate, the consumer and the utility shall be advised accordingly.

In the event that the Commission considers the Utility to be at fault, then the Utility shall be requested in writing to address and rectify the matter. Upon completion of the analysis, both the consumer and utility shall be advised of the IRC's position in writing.

The Utility will have twenty one (21) days to either, comply with the Commission's position or apply for reconsideration. In the event that the decision is not acted upon within twenty (21) days, the Commission may initiate the Formal process.

### **Formal Complaints Process**

*If either the company or the customer is dissatisfied with the outcome of the procedure above and so advises the Commission, or if the company has not acted on the outcome of that process, a Formal process may be initiated where the matter is referred to Board of the Commission.*

The Commission will consider a formal complaint after the Executive Director has notified the Commission by way of the Complaint Briefing Form (in the Form provided at Annex 1) where (i) the Utility or the Customer, as the case might be, is dissatisfied by the initial ruling on a complaint or (ii) if initiated ab initio by any aggrieved person affected by any practice by a Utility, which the complainant alleges is in any respect unfair, unreasonable, unjust, or inadequate and the Executive Director determines that the matter is of sufficient regulatory importance, with regards to the salient issues, that it requires the attention of the Commission.

The Formal Complaint briefing form shall be copied simultaneously to the complainant and the affected utility.

## **Procedure upon Receipt of a Formal Complaint**

The Commission, upon receipt of a formal complaint (Annex 1) shall, cause the matter to be reviewed by a Commissioner (normally the Chair of the Commission's sub-committee on Consumer Affairs) who shall either:

- a. refer the matter back to the Executive Director with guidance as to resolution of the matter or;
- b. cause the matter to be placed before the Commission to formally proceed to consider the matter

If the Commission proceeds to consider the matter it shall, in the case of a complaint referred to it by the Executive Director:

- a. analyze the information provided and, if there is sufficient information to formulate a decision, the Commission shall issue such decisions as it deems appropriate, consistent with the applicable legislative provision, or:
- b. request such further and better particulars as will enable it to arrive at such decision as may be appropriate and issue the relevant enforcement order.

In the case of a complaint initiated *ab initio*, the Commission shall cause a copy of the complaint to be served on the Utility accompanied by a notice from the Commission calling upon the Utility to answer to the same in writing within ten (10) days, providing all supporting documentation and further information as the Commission may request; and to satisfy and or rectify the matter within twenty one (21) days, notifying the Commission of the method and manner of such rectification.

In the event that the Utility is unable to rectify the matter within the twenty one (21) days prescribed, the Utility's response shall state its defenses to each claim asserted by the complainant and shall admit or refute the assertions upon which the complainant relies. In the event that the Utility desires an extension of time, it should apply to the Commission for same. Such extension shall not be unreasonably denied but shall not normally exceed a further ten (10) days. If the Utility is without knowledge or information sufficient to form a belief as to the truth of an assertion, the answer shall so state and this shall have the effect of a denial, providing the necessary evidence to substantiate such a position.

In the event that the Utility is desirous and/or able to satisfy the complaint, it shall submit to the Commission in its response a statement of the relief which it is willing to give, a copy of which shall be simultaneously served upon the complainant. Upon acceptance of this offer by the complainant and notice to the Commission, the

complaint shall be deemed dismissed whereupon the Commission's files on the matter shall be closed. If there is an offer of partial settlement of the case, the Commission shall (a) determine whether there is justification for the partial settlement and, if negative, shall issue such appropriate enforcement order as the circumstances warrant or (b) if there is justification for the partial settlement, the Commission shall advise the complainant accordingly and the Commission's files on the matter shall be closed.



### **SCHEDULE3            PROCEDURES FOR THE CONDUCT OF INVESTIGATIONS**

Commencement of investigations initiated by the Commission or upon complaint by any person shall be in accordance with Section 39 of the Act, which states as follows:

***“39. Commissions duty to investigate.***

*(1) The Commission shall investigate any matter which appears to be an enforcement matter and which is the subject of a representation to it by a person having an interest in the matter in cases other than those in which the Commission considers that such an investigation would not be beneficial to or appropriate in the public interest.*

*(2) For purposes of this section, an enforcement matter means any matter in respect of which any of the functions of the Commission under this Act are or may be exercisable and which requires enforcement.”*

**Section 40. (i) states as follows regarding Administrative Orders:**

*“The Commission may, without limiting its powers, issue such administrative orders and rules or take such action as are necessary to:-*

*(i) Investigate possible violations and otherwise enforce the provisions of the Act”.*

Where the Commission proposes to hold an investigation, it shall cause to be published, at intervals of not less than three days in two issues of a daily newspaper printed and circulating in Dominica and on the Commissions web site, notice of such intention stating the purpose for which the investigation is to be held and that representations with respect to the subject matter of the investigation may be lodged with the Commission within fifteen clear days after the last of the publications required by this paragraph and otherwise in the manner specified in the Notice.

The hearing into the matter shall commence not more than forty five (45) calendar days after the date of the publication of the first notice of the investigation.

Not less than ten (10) days before the scheduled date for commencement of the investigation, the Executive Director shall invite the relevant witnesses and concerned parties requiring their attendance at the hearing and, pursuant to S. 22 (g) of the Act, compel the production of books, plans documents and other information required by the Commission for the conduct of the investigation.

As soon as possible, but not more than ninety (90) calendar days after the conclusion of an investigation, the Commission shall cause to be served on the licensee affected and on any person who was a party to the proceedings a copy of the findings of the Commission and of any order made by the Commission arising out of the investigation.

## **SCHEDULE 4      PROCEDURES FOR CONDUCTING PUBLIC HEARINGS**

### **General procedures for the conduct of Public Hearings**

The following procedures shall be applicable generally to public hearings.

- (1) Commencement by issuance of a public notice two newspaper having wide circulation in Dominica and on the Commission's web site at least fourteen (14) days prior to the date on which the hearing is to be convened.
- (2) A Commissioner shall be designated by the Chairman to Chair the meeting.
- (3) The Chairman, who will already have prepared an agenda and caused it to be circulated, shall commence the meeting with an opening statement of the issues concerning the subject matter for which the meeting has been convened and identifying the issues and outcomes expected.
- (4) The Chairman shall thereafter initiate discussion by inviting comments from the stakeholders and other members of the public.
- (5) A recording secretary shall take minutes of the proceedings which shall thereafter, within seven (7) days be circulated to the stakeholders present who have provided contact information and requested copies of the proceedings, as well as to the Commission and its functionaries
- (6) The relevant Commission Staff as assigned by the Executive Director shall be in attendance.
- (7) The Commission shall have regard to the issues raised at these hearings in arriving at its decision on the subject matter.
- (8) All arrangements for the convening of such hearings shall be the responsibility of the Consumer and Public Relations Department

### **General Rules for Representation of parties to a proceeding before the Commission**

#### Appearances and Representation

An individual, receiver, trustee, or official may appear in his or her own behalf. A member of a partnership may represent the partnership. An authorized Officer of a corporation may represent the corporation. A member or employee or an association or non-profit corporation may represent the association or non-profit corporation. An

official of a public or statutory body or other governmental agency may represent that entity or governmental agency.

A person may be represented in any proceedings before the Commission by an attorney-at-law admitted to practice before the High Court of Dominica.

Any party which is represented by more than one attorney shall at the time it first appears before or files with the Commission, designate which one of those attorneys is authorized to receive service on behalf of that party. Service to that designated representative shall be considered to be service to all representatives of that party as well as to that party.

In addition to the requirements of rule regarding *ex parte* communication, any attorney who participates in any proceeding before the Commission shall comply with the rules and regulations of the Commission and shall adhere to the standards of ethical conduct required of attorneys before the courts of the Commonwealth of Dominica and the legal professional code of conduct.

#### Conduct during the Proceedings

In these proceedings before the Commission, the Commissioner's Legal Counsel, shall be solely responsible to communicate, with the Commission on the merits of the case except as follows:

- (a) In the course of official proceedings in the cause; and
- (b) In writing directed to the Executive Director with copies served upon all other Counsel of record.

It is improper for any party, or person representing a party, in a case before the Commission to attempt to sway the judgment of the Commission in that case by undertaking directly or indirectly, through a third party outside the hearing process to bring pressure or influence to bear upon the Commission, its Staff, or the presiding Officer assigned to the proceeding.

Requests for expeditious treatment of matters pending with the Commission are improper except when filed with the Executive Director and copies served upon all other parties or unless made before the Commission at a hearing.

No member of the Commission, presiding Officer, or employee of the Commission shall invite or knowingly entertain any prohibited *ex parte* communication, or make any communication to any party or counsel or agent of a party, or any other person who he or she has reason to know may transmit that communication to a party or party's agent.

The Commission may disqualify and deny temporarily or permanently, the privilege of appearing or practising before it in any way to any individual who, after a hearing before an independent authority, is found to have violated the requirements of this section.

Violations of the requirements of this section by attorneys may be referred to the Dominica Bar Association for investigation.

Conduct amounting to contempt at any hearing before the Commission or a member of the Commission or before a presiding Officer of the Commission shall be grounds for exclusion from the hearing and for summary suspension for the duration of the hearing or of the proceeding, or any part thereof after the contemtor is given a right to be heard.

#### Substitution of Parties

In the event of the death of an individual, or the dissolution or fundamental reorganization of an entity, the Commission, upon motion of a party or upon its own motion, substitute the person succeeding to the rights and liabilities of the substituted party provided the party acting as substitute has consented.

#### Discontinuance and Dismissal

An applicant or complainant may voluntarily discontinue an application or complaint without an order of the Commission at any time before prepared testimony has been filed or oral evidence has been offered, by filing a notice of discontinuance with the Commission and serving a copy on all parties. Once evidence has been offered or prepared testimony filed, an applicant or complainant may discontinue an action only by leave of the Commission or by written consent of the parties.

Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) calendar days and no party has filed a pleading requesting a continuance beyond that time.

A party may be dismissed from a case for failure to comply with any order issued by the Commission, including failure to appear at any scheduled proceeding such as a public hearing, pre-hearing conference, hearing, or mediation session

The Commission may require parties who have concluded agreements under this section to file copies of such agreements with the Commission.

#### Agreements and Negotiated Settlements

The parties may at any time file an agreement as a proposed resolution of all or any part of a contested matter before the Commission for consideration and deliberation. A stipulation and agreement shall be filed as a pleading.

The Commission may resolve all or any part of a contested case on the basis of an agreement.

## **Costs**

The Commission has no jurisdiction to order the apportionment of costs. The Commission may levy the direct costs it incurs for specific investigations/studies, expert witnesses, etc on the party that causes such cost to be incurred.

## **Role of Commission Staff at Hearings**

Commission staff act in an advisory capacity to the Commission and shall in no way be considered as a party to any Proceeding before the Commission.

- (1) No Commission staff may comment or participate as expert witness in any proceedings except when directed to do so by the Commission.
- (2) In appropriate circumstances the Commission may appoint its Legal Counsel or designee to assist the Commission in eliciting the relevant information on the subject matter being considered by it and shall have the power to examine and cross-examine interveners or respondents appearing in the matter.
- (3) Staff members and consultants engaged by the Commission shall upon request by the Commission, provide such clarification and expert opinion, on the matter being considered at the hearing.

## **Further Procedures for formal “Appearance before the Commission”**

In a situation where the matter is to be heard by a formal “Appearance before the Commission”, the Executive Director shall designate Legal Counsel to “marshal the evidence” on behalf of the Commission. Once so designated, Counsel assumes full responsibility for the management of the proceeding.

The Chairman will appoint the panel to hear the matter and, in so doing, will designate the Chairman of the Panel.

## **SCHEDULE 5            PROCEDURES FOR HANDLING EXCHANGE OF CORRESPONDENCE**

Upon initiation of a complaint/enquiry that the Commission deems can properly be resolved through exchange of correspondence, the following procedures shall apply:

(1) If initiated by the Commission:

- (a) The Commission shall request a report concerning the issue requiring, where necessary, all evidence/exhibits that will support the case of the party against whom the complaint/enquiry is directed or justification for the action.
- (b) The response shall be submitted to the Commission within fifteen (15) days of the date of its request or such later date as the Commission may subsequently require
- (c) If no additional information is required as will allow a decision be to taken, the Commission shall review the information presented and issue its decision or action it proposes to take within fifteen (15) days after receipt of the requested information and otherwise in accordance with the applicable rule.

(2) If initiated by a third party:

- (a) An acknowledgement of the complainant's complaint/enquiry shall be sent by the Commission within five (5) days of receipt thereof.
- (b) The Commission shall request a report including all pertinent evidence to support its position from the party against whom the complaint is made or the enquiry directed within ten (10) days.
- (c) If no additional information is required as will allow a decision to taken, the Commission shall review the information presented and issue its decision or action it proposes to take within fifteen (15) days after receipt of the requested information and otherwise in accordance with the applicable rule.

(3) If additional information is required in any of the scenarios above, the Commission shall request such information and the party to whom such request has been sent shall comply with such request within ten (10) days of the date of such request.

## **SCHEDULE 6            PROCEDURES FOR THE CONDUCT OF COMMISSION MEETINGS**

### **Conduct of Meetings with External Parties**

To assist the Commission in carrying out its functions, staff members are frequently required to meet with and interact with external parties. To ensure accurate recording of the issues discussed at such meetings, ensure proper follow-up and that appropriate records are kept, the following shall apply with respect to all such meetings held with third parties.

The IRC's Staff shall as a general rule hold meetings at the IRC's Offices with third parties, whether requested by them or at the IRC's requests.

1. The staff member responsible for convening or chairing any such meeting (the chairman) shall designate a member of staff in attendance to make notes, recording the key issues discussed, the points agreed on, points of disagreements, reservations expressed, commitments made by parties, schedules agreed on and any other important matter.
2. Where it is considered necessary for verbatim notes to be taken, the staff member arranging the meeting shall make arrangements for the appropriate services to be provided.
3. The meeting chairman shall ensure that such notes are properly recorded and circulated to all parties in attendance with a set date for comments, clarifications, corrections, disagreements, etc. Subsequent to the expiration of that date, such notes subject to any correction, amendment, disagreement or addition indicated by other parties, shall become the official records of that meeting.
4. Notes of meetings shall be put in circulation no later than four (4) days after the date of the meeting.
5. A copy of the notes initially placed in circulation as well as final notes after circulation shall be copied for the attention of the Executive Director and copies thereof placed in the relevant docket.

### **Meetings away from the Commission's Offices**

The following shall be applicable in respect of meetings away from the IRC's offices:

1. Personnel representing the Commission at meetings held outside of the Commission shall ensure that notes are taken of the proceedings.

2. A copy of such notes shall be circulated to all personnel in attendance at the meeting within four (4) days. Final versions of such notes shall be copied for the attention of the Executive Director no later than seven (7) days after the meeting and copies thereof placed in the relevant docket.

### **Procedures for Commission Meetings and Making Commission Decisions**

1. The Commission will only convene formal Commission meetings to carry out its functions pursuant to the Act.
2. A timetable showing the schedule for the Commission Meetings shall be kept and posted at a place within the vicinity of the Commission immediately available to the public and on the Commission's website. Such a timetable shall be updated on a regular basis. Meetings of the Commission are open to the public.
3. Commissioners who are physically absent from meetings of the Commission shall be deemed to be present at these meetings so long as those Commissioners are able to participate in the meetings via listening to the proceedings of the meetings and engaging in oral discourse during the said meetings.
4. Ten (10) days prior to the holding of each Meeting, Commissioners shall be presented with briefs prepared by the Executive Director, after consultation with the Chairman, outlining the agenda for the meeting, a summary of the subject matters to be considered and the required decisions. All matters for decisions by the Commission shall be routed through the Executive Director.
5. Each decision of the Commission shall be given a reference number for recording and tracking purposes.
6. The deliberations preceding each decision shall be recorded along with the decisions taken and shall become a part of the public record and where appropriate or practical posted on the Commission's website.
7. The Office Manager, unless otherwise designated by the Executive Director, shall operate as recording secretary for Commission meetings and shall be responsible for recording and keeping the minutes of the proceedings of such meetings.
8. Meetings of the Commission, when acting in its capacity as the Board of the Commission for administrative matters, shall be conducted generally as set out in this part except that the meetings are not open to the public.

Separate minutes of these meetings shall be maintained.



## **SCHEDULE 7      SUB COMMITTEES OF THE COMMISSION**

Table S7.1 provides information on the sub-committees that have been established to facilitate efficiency in the work the Commission. Each committee is chaired by a Commissioner appointed by the Chairman. Members comprise the Executive Director and the Senior Manager responsible for the particular function. Staff members are invited to specific committee meetings as resource persons as appropriate.

**Table S7.1**

**Sub - Committees of the Commission**

<b>Function</b>	<b>Name</b>	<b>Key responsibility</b>
Administrative	Finance and procurement	Oversight of the financial operations of the agency. Review Audit reports and recommend action to the Board. Preliminary review of proposed budgets on behalf of the Board. Approving award of major procurement contracts - the Board will already have approved the expenditure in budget approval; approval of the procurement is to satisfy itself that procurement rules have been followed and that contract award is consistent with these rules.
	Human Resources management and administration	Oversight of the Human Resource Functions - employment of the senior managers; training and development policy; administrative issues e.g review of personnel and administrative policies; salary structures; organizational review, technology; etc.
Regulatory	Licencing	Licence application processing, review and enforcement recommendations to the Commission.
	Regulation and Policy	All other issues other than Licencing, either for approval or for recommendation to the Commission – e.g tariff issues must be referred to the whole Commission but some issues may be disposed of by the Committee and reported to the Commission. Reviewing policy papers and signing off on recommended policy positions for adoption by the Commission.
	Consumers	All decisions related to consumer issues which would normally be referred to the Commission; in particular decisions which “impose” a penalty on the companies on behalf of groups of or individual consumers. Signing off on recommended consumer policy positions for adoption by the Commission.

**SCHEDULE 8            FUNCTIONS DELEGATED BY THE COMMISSION**

Section 40 (d) of the Act allows the Commission to “*delegate its authority as to any regulatory matter under its jurisdiction, except matters relating to licensing or to tariff formulation, to the Chairman, Executive Director or divisions and offices of the Commission*”.

Table S8.1 sets out the delegated authorities

**Table S8.1**

**Delegated Authorities**

<b>Function</b>	<b>Decision level</b>
Manager - as assigned by the Executive Director	Resolving and follow up of technical and routine issues relating to area of responsibility and taking to conclusion; daily contact on issues under consideration by the Commission; acceptance of regulatory and other reports and initiating interrogatories arising from them; handling consumer complaints and taking to resolution. Follow up in relation to the processing of and tariff and licence applications. The Consumer /Public Relations Manager is designated as an official spokesman for the Commission.
Executive Director	All of the above; receiving tariff and licence applications; conducting policy discussions/negotiations; the official point of contact with the public and industry for the Commission. Official spokesman; finalizing consultation documents on behalf of the Commission. Represents the Commission in all fora and can commit the Commission within the framework of established regulatory and administrative policies and budget. Authority to hire staff and terminate employment of staff except in the case of designated senior managers, where the Executive Director makes recommendations for the Board’s decision.
Chairman	All of the above; finalize delegated policy issues and other matters not related to tariff and licensing.

## **ANNEXURES**

ANNEX 1 CUSTOMER COMPLAINT BRIEFING FORM

To The Commission

(Pursuant to the Electricity Supply Act No 10 of 2006

Particulars of Complainant and Relevant Utility

Case No. CC \_\_\_\_\_

Complainant

Street

Address: \_\_\_\_\_

Mailing Address (if different from above): \_\_\_\_\_

E Mail

Telephone Number: \_\_\_\_\_ Mobile Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

vs.

(Insert name of utility) \_\_\_\_\_

Street Address:

Mailing Address (if different from above)

E Mail: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Complaint Origin

(Tick where applicable)

(I) Initiated as Formal Complaint by complainant. [ ]

(II) Referred to the Commission as Formal Complaint by the Consumer and Executive Director of the IRC. [ ]

The \_\_\_\_\_ complaint/petition of \_\_\_\_\_ the above-named \_\_\_\_\_, complainant states the following:

1. That the above-named \_\_\_\_\_, is a Public Utility engaged in the business of providing electricity services in Dominica and as such is subject to the provisions of the Electricity Supply Act No 10 of 2006 (The Act), as well as the relevant subsidiary legislation/instruments/Terms and Conditions of Service and the provisions thereof applicable to said Regulated Entity.



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*(If Applicable)* Further and better particulars of the matter are attached hereto as **Appendix 1.**

(b) The Complainant seeks the following remedy:

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*(If Applicable)* copies of the relevant documents from the Complainant’s Case File are attached hereto as **Appendix 2.**

4. *(If applicable)* **Actions taken by the Executive Director with a view to resolution.** *(State concisely all actions taken by the Executive Director regarding said Complaint, as well as reasons for lack of resolution via the Informal Complaints Process).*

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*(If Applicable)* Further and better particulars of the actions taken by the Executive Director are attached hereto as **Appendix 3.**

Wherefore, the Complainant and/or the Executive Director hereby requests that the said Public Utility \_\_\_\_\_ be required by the Commission to answer to the matter and issues set out herein, and that after due investigation pursuant to

the provisions of the Act or other applicable legislation of the Act , where applicable, a **Decision** and/or an **Order** pursuant to the Act may be issued commanding the said Public Utility to rectify and remedy the conduct complained of, and for such other and further order or determination as the Commission may deem necessary, reasonable and just in the premises.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed \_\_\_\_\_

Executive Director

Complainant's Attorney, (if applicable)

Attorney's Address: \_\_\_\_\_

Contact Information: \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_



## **FORMS**

**FORM No Gen/AR 1  
ANNUAL REGULATORY RETURN**

**Please specify the type of licence presently held by operator:**

**Electricity**

Generation [ ]

Transmission, Distribution & Supply [ ]

**Section A**

**Section A (1): Particulars of Licensee:**

1. Name and address of Licensee .....

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2. (This section is to be completed if requested information differs from that provided in the original application or previous return)

Where Licensee is a company:

(a) Country and date of incorporation and registration.....

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(b) Registration number: .....

(c) Address of Registered Office:.....

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(d) Share capital (original application)

	par value (EC\$)	authorized (number)	issued (number)
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preference shares

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ordinary shares

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(e) Changes in Share Capital (if any since last application)

Please set out in an attachment details of changes in share capital

3. Original Licence

Type..... date issued .....  
Expiry date .....

- Set out in an attachment, any changes since original application or previous return in the names and business addresses of the Directors, Chief Executive Officer, and Company Secretary.
- Set out in an attachment, any changes since original application or previous return in the names, addresses and other contact details and country of domicile and shareholdings. Also state if there are any changes in shareholders holding more than 10 % of any class of shares in the applicant company.
- Attach certified copies of any amendment to the Certificate of Incorporation.
- Set out in an attachment, any changes in premises, plant and infrastructure, whether by way of substitution or addition.

4. Licensee's postal address (if different from Registered Office):

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5. Telephone No:..... Mobile No..... Facsimile No:.....  
Email address: .....

6. The particulars of any person or organization acting on behalf of the Licensee (contact in Dominica) :

Name:.....  
Address:.....  
.....  
Telephone No: ..... Facsimile No: .....  
Email address: .....

7. The particulars of any person or organization acting on behalf of the Licensee (contact overseas) and authorized to interface with the Commission:

Name:.....  
Address:.....

Telephone No:..... Facsimile No: .....  
E-mail address: .....

8. Particulars of Chief Executive Officer, if different from (6)

Name:.....  
Address:.....  
Telephone No:..... Facsimile No: .....  
E-mail address: .....

9. The Licensee's bank, if different from original application or previous return, (if more than one bank provide additional information on a separate sheet) both locally and overseas :

Name: .....  
Address:.....  
.....  
Telephone No:..... Facsimile No: .....  
E-mail address: .....

10. The Licensee's present auditor:

Name: .....  
Address: .....  
.....  
Telephone No..... Facsimile No: .....  
E-mail address: .....

11. The Licensee's technical consultant(s):

Name: .....  
Address: .....  
.....  
Telephone No:..... Facsimile No: .....  
E-mail address: .....

**SECTION B: History of Licensee:**

(Set out, if necessary, details in separate Annex)

(If information is previously on record of the Commission and has not changed, check box [ ]

Date of Incorporation: [ ]

Place of Business and date of Acquisition, if different from date of application: [ ]

Nature of Licensee's business activities (and changes thereto since grant of licence):

[ ]

Description of Licensee's premises, infrastructure, (and any changes thereto since grant of licence): [ ]

Nature of any offences and/or court action or investigation occasioned by the activities of the licensee (elaborate in separate attachment): [ ]

**SECTION C: Financial Information**

1. Attach the most recent audited financial statement which should be for a period ending not later than one year prior to the date of this return.

**TICK the appropriate box. If "Yes", give particulars.**

2. Is there any person or company, based locally or abroad, whose name is not disclosed in Section A, who has any major financial interest in the Licensee, either beneficially or otherwise?

[ ] Yes      [ ] No

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**SECTION D: Technical Information**

1. Where applicable, state the nature and duration of the Licensee's contractual and technical relationships (if any) with local and overseas companies (if necessary, please elucidate in a separate attachment).
2. What is the technical nature of the Licensee's service provisioning infrastructure? (if necessary, please elucidate in a separate attachment.)
3. Has the Licensee effected any changes since original application in the plant and internal/external infrastructure of the licensee's premises and operations?

Yes [ ] No [ ]

4. If yes, in a separate attachment please state if possible the dates and nature of changes to Licensee's plant and infrastructure as well as changes in the nature and volume of the service provided.
5. Where applicable, please state whether the Licensee has complied with all network expansion requirements contained in the original licence or subsequently agreed investment plan? If no, please give reasons.

Yes [ ] No [ ]

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6. Does the Licensee have measures in place to ensure risk management and customer protection from fraud and service interruption and revenue seepage?

Yes [ ] No [ ]

Does the Licensee have systems/procedures in place to control the following?

- (a) Internal security
- (b) Customer account and payment manipulation
- (c) Confidential information theft

**SECTION E (1): Offences**

**Tick the appropriate box. If "Yes", give particulars.**

1. Has the Licensee, or any director or executive officer of the Licensee, since the grant of the licence or since the previous return, pleaded guilty or been found guilty under any law of Dominica or any other country of any offence involving dishonesty, fraud or theft?

Yes [ ] No [ ]

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2. Has the Licensee, or any director or executive officer of Licensee, since the grant of the licence or since the previous return, ever been convicted of any criminal offence not mentioned in paragraph 1?

Yes [ ] No [ ]

3. Is the Licensee, or any director or executive officer of the Licensee, currently the subject of a charge or indictment under any law of Dominica or any other country for contravention of any law or for any conduct of the type described in paragraphs 1 and 2?

Yes [ ] No [ ]

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4. Is the Licensee, or any director or executive officer of the Licensee, currently the subject of any contractual disputes with other operators in the industry?

Yes [ ] No [ ]

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**SECTION E (2): Compliance with Statute, Regulations, Licence or Commission Orders**

1. Has the Licensee violated any provisions of the relevant regulatory instrument (including Acts, Regulations, Orders, since the grant of the licence or since the previous return,? If yes, what provisions were violated?

Yes [ ] No [ ]

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2. Has the Licensee paid the relevant regulatory service fees and other levies for the period?

Yes [ ] No [ ]

3. Has the Commission issued any enforcement proceedings against the Licensee during the term? If yes, please state details of offence and actions taken by the Commission to enforce and remedial actions taken by the Licensee.

Yes [ ] No [ ]

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4. Has the Licensee received any warnings from the Commission in relation to its activities during the term? If yes, state details.

Yes [ ] No [ ]

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5. Has the Licensee been subject to any investigations in relation to its business activities, initiated by other operators or any relevant Authority?

Yes [ ] No [ ]

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6. Has the Licensee provided the licensed service under this licence?

Yes [ ] No [ ]

7. Has the Licensee complied with the obligations set out in the Electricity Supply Act of 2006

Yes [ ] No [ ]

8. Has the Licensee operated within the limitations imposed by the licence? If no, please give reasons.

Yes [ ] No [ ]

9. Has the Licensee furnished all reports to the Commission as specified in the licence and prescribed and requested by the Commission?

Yes [ ] No [ ]

**SECTION D (3): Civil Proceedings**

**Tick the appropriate box. If “Yes”, give particulars.**

1. Since the last return, has any claim been made successfully in Dominica or any other country which was based in whole or in part on fraud, theft, deceit or misrepresentation or similar conduct against:

(a) the Licensee

Yes [ ] No [ ]

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(b) any Director of the Licensee

Yes [ ] No [ ]

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(c) any executive Officer of the Licensee

Yes [ ] No [ ]

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2. Is there any claim pending in any civil matter before a court or other tribunal in Dominica or any other country against the Licensee, or any director or executive Officer of the Licensee, which is based in whole or in part on fraud, theft, deceit or misrepresentation or similar conduct?

Yes [ ] No [ ]

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**SECTION E: Declaration of Undertaking of Licensee**

I.....of.....  
(Name of Authorized Officer) (Name of Licensee's Company)

.....  
Address of Company

Declare that:

- (i) All information submitted in this report is true and correct. I understand that, if I knowingly make any false statement in this report, any licence presently granted to me may be revoked.
- (ii) We have operated within the terms of the licence, and
- (iii) Since the last return, we have not engaged in any conduct amounting to a material contravention of the Electricity Supply Act 2006, or any regulations made there under and enforced from time to time.
- (iv) We reaffirm our undertaking to comply with the provisions of the Electricity Supply Act of 2006 Act, and any regulations made there under.
- (v) No legal impediment exists which would disqualify (*INSERT NAME OF LICENCEE*) from continuing to hold the Licence and that we satisfy all other legal requirements to hold the Licence.
- (vi) During the continuance in force of the licence, we will not misrepresent the nature of my operations nor have we misrepresented the nature of the

technical infrastructure and plant and where changes to the above have taken place we have and will continue to use best endeavours to apprise the Commission and interconnected parties of same in a timely manner.

Dated this..... day of .....20.....

Signed for and on behalf of Licensee:

.....  
Authorized Officer of Licensee (Director) Signature

.....  
Authorized Officer of Licensee (Secretary) Print Name

Affix Corporate Seal to Signatures  
DATE: