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LICENCE DOCUMENT

**TRANSMISSION, DISTRIBUTION & SUPPLY
LICENCE**

For

DOMINICA ELECTRICITY SERVICES LIMITED

September 2013

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COMMONWEALTH OF DOMINICA
INDEPENDENT REGULATORY COMMISSION

Dominica Electricity Services Limited
Under Section 30 of
The Electricity Supply Act 10 of 2006

ELECTRICITY TRANSMISSION, DISTRIBUTION AND SUPPLY LICENCE

PART I: GRANT OF THE LICENCE

1. The **Independent Regulatory Commission** in exercise of the powers conferred by Section 30 of the Electricity Supply Act 10 of 2006 (The *ESA*) **HEREBY GRANTS** to Dominica Electricity Services Limited (the Licensee) a Licence (the Licence) authorising the Licensee to operate the *Transmission, Distribution and Supply System* in the *Service Territory* for the period specified herein subject to the conditions set out in Part II - Part VII hereof ("the Conditions") and as noted herein.
2. This Licence shall be cited as the DOMLEC Transmission, Distribution and Supply Licence 2014
3. This Licence shall come into effect on the 1st day of January 2014 (the Commencement Date) and shall continue in full force and effect until termination or expiry unless amended, revoked or terminated pursuant to the Conditions set out herein.
4. The Licence shall be governed by and construed, enforced and performed in accordance with the laws of the Commonwealth of Dominica.

Sealed and executed for and on behalf of the Independent Regulatory Commission on the 30th day of September 2013.

PART II: GENERAL TERMS AND CONDITIONS

Condition 1: Interpretation

1. Unless the contrary intention appears, words and expressions used in this Licence shall be construed as if they were in an Act of Parliament and the Interpretation and General Clauses Act applied to them. Any reference in this Licence to an Act shall include that Act as from time to time amended, extended, re-enacted, revised or consolidated whether before or after the date of this Licence and all statutory instruments, regulations or orders made thereunder.
2. Any word or expression defined for the purposes of any provision of the Electricity Supply Act 10 of 2006 (the ESA) shall, unless the contrary intention appears, have the same meaning when used in this Licence.
3. In this Licence unless the context otherwise requires:

"*Affiliate*" in relation to any person means any holding company or subsidiary of that person or any subsidiary of a holding company of that person in each case within the meaning of Section 149 of the Companies Act.

"*Assets*" mean the material assets and facilities owned, operated or leased by the Licensee, including the real estate.

"*Authorised*" in relation to any business or activity means authorised by Licence granted under Section 30 of the ESA.

"*Authorised Electricity Operator*" means any holder of a Licence granted under Section 30 of the ESA.

"*Catastrophic Failure*" means a sudden and unexpected failure of any part of the *System* which renders the *System* in whole or in part economically or technically unfit to operate.

"*Commission*" means the Independent Regulatory Commission as established pursuant to Section 4 of the ESA.

"*Company*" means Dominica Electricity Services Limited.

"*Companies Act*" means the Companies Act No. 21 of 1994 and any amendments thereto.

"*Development area*" means a specified geographic area that has been approved by the relevant *Governmental Authorities* to be developed or utilized for a specific purpose.

"*Distribution Line*" means any electric power line that delivers power to consumers.

"*Distribution System*" means the network, including substations, distribution lines, transformers and other apparatus that receives electricity from the transmission system and delivers it to customers

"*ESA*" means the Electricity Supply Act 10 of 2006 and any amendments thereto.

"*Fair Market Value*" means the market value of the Licensee when evaluated as an ongoing business concern including this Licence and all lands, buildings, works, materials, plant and property of all kinds whatsoever suitable to or intended for the purposes of the undertaking and shall be determined in a manner that complies with the term Fair Market Value as defined by the American Society of Appraisers, that is the price, expressed in cash equivalents, at which the Shares would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arm's length in an open unrestricted market when neither is under any compulsion to buy or sell and when both have reasonable knowledge of the relevant facts. Fair market value shall be the average value as determined by a panel of three (3) independent valuation experts, one to be selected by the Commission, one by the Licensee and one, who shall be Chairman of the panel, to be selected by the two other members. In the event that the nominees cannot agree on the selection, the Chairman shall at the written request of the parties, be appointed by the President of the Caribbean Development Bank provided that if he fails or refuses to do so within 21 days after being so requested the Chairman shall be appointed by the American Society of Appraisers at the written request of the parties.

"*Financial Year*" means the twelve month period at the end of which the Licensee's annual accounts are closed.

"*Force Majeure*" means an event or circumstance which prevents the Licensee from performing its obligations under this Licence, which event or circumstance is not within the reasonable control of, or the result of the

negligence of, the Licensee, and which the Licensee is unable to overcome or avoid or cause to be avoided through the exercise of due diligence. Events of Force Majeure may include, but are not limited to, acts of God; fire including fire resulting from an earthquake; flood including flood caused by an earthquake; volcanic eruption; earthquake; hurricane; cyclone; tornado; windstorm; overflow of the sea caused by the elements listed above; war; riots; acts of terrorism; strikes; walkouts; lockouts and other labour disputes; requirements, actions or failure to act on the part of governmental authorities; adoption or change in any law, regulation, statute, rule or regulation imposed by governmental bodies, including, without limitation, a change in the interpretation thereof; or any lawful order by any court or administrative agency (so long as the Licensee has not applied for or assisted in the application for such court or governmental action).

"*Generating Facility/Facilities*" means any power plant(s) and associated equipment owned or controlled by a *Generation Licensee* pursuant to a licence issued by the *Commission*.

"*Generation Licence*" means a licence granted under Section 30 of the *ESA* authorising the Licensee to carry out the generation of electricity for supply to the *System*.

"*Generation Licensee*" means the holder of a generation licence granted by the *Commission* under Section 30 of the *ESA*

"*Generation Set*" means any plant or apparatus used for the production of electricity.

"*Government*" means the Government of the Commonwealth of Dominica.

"*Governmental Authority*" means any (a) national, municipal, central or local government, department, central bank, court, council, commission, board, bureau, tribunal, agency or instrumentality of the Commonwealth of Dominica or (b) any subdivision, agent, commission, board or authority of any of the foregoing.

"*Governmental Requirement*" means all Acts, statutes, orders, ordinances, injunctions, constitutional provisions, treaties, licences, notices, rules, rulings, regulations, concessions, decisions, authorizations, consents, decrees, permits, proclamations, instructions, certifications, judgments, verdicts, confirmations, approvals, filings or similar items of, or granted by, any *Governmental Authority* which are applicable to the Licensee.

"Independent Power Producer (IPP)" means a licensed generator which owns facilities for the purpose of generating electricity for sale to a Transmission, Distribution and Supply Licensee.

"Integrated Business" means the utility business of the Licensee comprising its Generation Licence and its Transmission, Distribution and Supply Licence.

"Licence Processing Fees" means fees prescribed by the *Commission* for the processing of an application for the grant of a licence pursuant to Section 30 of the *ESA*.

"*Minister*" means the Minister with portfolio responsibility for electricity.

"*Outside person*" means any *person* who is not an *Affiliate* of the Licensee.

"*Person*" means any individual, partnership, joint venture, association, trust company, or corporation.

"Power Purchase Agreement (PPA)" means a contract with an *Independent Power Producer* for the provision of either electrical energy only or electrical energy and capacity.

"Regulatory Accounts" means the reports on the financial and operating performance of the Licensee in such detail and format as designated by the *Commission*.

"Regulatory Fees" mean the Fees prescribed by the *Commission* from time to time pursuant to Section 17 of the *ESA*.

"Related Party" shall have the meaning defined under the International Financial Reporting Standards (IFRS).

"Service Territory" means, for the purpose of this Licence, the Commonwealth of Dominica.

"Shares" means the issued and outstanding shares of the Company.

"*Subsidiary*" shall have the meaning specified in the Companies Act No. 21

"*System*" means the transmission and distribution network consisting wholly or mainly of electric lines owned or operated by the Transmission Distribution and Supply Licensee and used to transmit, distribute and supply electricity and includes any electrical plant and meters owned or operated by

that Licensee in connection with the transmission distribution and supply of electricity.

“Technical Inspector” has the same meaning as defined in the ESA.

"Transmission Line" means any electric power line that is used for the bulk transfer of electrical energy from generating facilities for delivery to the distribution system.

"Transmission, Distribution and Supply Business" means the business of the Licensee in the planning, development, construction and maintenance of the *System* and the operation of such *System* for the transmission, distribution and supply of electricity pursuant to the *Transmission Distribution and Supply Licence*.

“Transmission Distribution and Supply Licence” means a licence issued under the ESA to carry on a Transmission, Distribution and Supply business.

"Transmission System" means the electrical power lines and associated apparatus that are used for the bulk transfer of electrical energy from generating facilities for delivery to the distribution system.

4. The Schedules attached to this Licence form part of the Conditions.
5. Any reference in a Condition of this Licence to a numbered paragraph is a reference to the paragraph bearing that number in the Condition in which the reference occurs.
6. In interpreting this Licence, headings shall be disregarded.
7. Where in this Licence the Licensee is required to comply with any obligation within a specified time limit, that obligation shall be deemed to continue even after that time limit if the Licensee fails to comply with that obligation within that time limit.
8. The provisions of the Interpretation and General Clauses Act shall apply for the purposes of the service of any document pursuant to this Licence.
9. At the request of the Licensee, the Commission may, from time to time, extend the period within which the Licensee is, under the Conditions of this Licence, obliged to provide any information or document.

Condition 2: Scope of the Licence

1. This Licence authorizes and gives the Licensee the exclusive right and privilege to transmit, distribute and supply electricity for sale to the public in the *Service Territory* and to operate, construct, reconstruct, modify or replace the transmission, distribution and supply facilities for these purposes subject to the ESA and the following:
 - a) Developers of generating facilities that will interconnect with the *System* by virtue of a *Power Purchase Agreement* with the Licensee will, as a general rule, be required to provide interconnection to the *System* at the high voltage (HV) side of the generator step up transformer. Under specific circumstances, subject to the approval of and grant of a transmission licence by the *Commission*, the developer may build, own and operate the transmission interconnector to the *System*.
 - b) Developers of energy resources that are primarily intended for cross border sale of electricity may, with the approval of and grant of a transmission licence by the *Commission* build, own and operate the associated transmission system infrastructure to enable such cross border arrangements. If circumstances require and it is prudent to do so, the developer may be eligible for a transmission licence to build and operate the transmission lines to interconnect with the *System*.
2. The Licensee has the exclusive right to supply for sale electricity to third parties for public and private purposes in the *Service Territory* for which the Licensee is entitled to bill consumers and customers for the electricity supplied at the rates and charges approved by the *Commission*.
3. Notwithstanding the provisions of Clause 2 of this Condition 2, the *Commission* may allow and issue licences for third party supply to any *Development Areas*, where there is to be no interconnection with the DOMLEC System and where it is demonstrated that for technical, commercial or other reasons the Licensee is unable or unwilling to extend the electricity supply system to those areas.
4. This Licence authorizes and gives the Licensee the right to purchase electricity in bulk from *Independent Power Producers* for transmission, distribution, supply and sale in the *Service Territory*.
5. For the purposes of satisfying the various references in the *ESA*, the Licensee is designated as the 'transmission system operator', the "distribution system operator" and the "system operator".

Condition 3: Term and Renewal of Licence

1. Subject to the provisions herein contained the term of this Licence shall be Twenty Five (25) years from the Commencement Date.
2. Negotiations for the issuance of a new License shall commence not later than the beginning of the Forty Second Month before the end of the Term. The negotiations shall be initiated and conducted in accordance with the procedures set out in the *Commission's "Decision Regulatory Policy and Procedures – Licensing Procedures"* Ref: 2009/001/ as amended May 2012.
3. Notwithstanding the provisions of Clause 2 of this Condition 3, the Licensee may at any time apply for an extension of the Term of this License having regard to the approved investment programme and/or the requirements of any PPA entered into by the Licensee with an IPP for a period which extends beyond the remaining life of the Licence. The *Commission* shall act on the Licensee's request for an extension of the Term in accordance with the procedures set out at Condition 13 of this Licence.

Condition 4: Assignment or Transfer of Licence

1. This Licence shall not be assigned or transferred without the prior consent of the *Commission* which shall be given in writing. Such consent shall not be unreasonably withheld.
2. The *Commission* shall consent to an application for the assignment or transfer of the Licence where the *Commission* is satisfied that the proposed assignee or transferee satisfies the criteria set out under Section 30 (7) of the ESA and any other criteria established by the *Commission* pursuant to Section 28 of the ESA.
3. Should the Licensee wish to assign or transfer the Licence, it shall request, in writing, the consent of the *Commission*. The *Commission* shall reply in writing within 60 days of the receipt of such request informing of its decision on the application.
4. The *Commission* shall publish its decision regarding a request to assign or transfer the Licence in the Official Gazette.
5. Where the *Commission* refuses to give its consent it shall give reasons in writing for such refusal to the Licensee.

6. The Licensee may apply to the *Commission* for a reconsideration of its decision not to assign or transfer its Licence and may appeal any decision made by the *Commission* following any such reconsideration in accordance with Condition 17.

Condition 5: Transfer of Shares of the Licensee

1. The Licensee shall advise the *Commission* in writing of any proposal to transfer shares in the ownership of the licensed business which will have the effect of changing the controlling interest in the Licensee.
2. The Licensee shall, as soon as is reasonably practical, provide such information to the *Commission* as may be required by the *Commission* to satisfy itself, pursuant to Section 28 of the ESA, that the persons acquiring control or ownership in the circumstances set out above are fit and proper persons.
3. Where the *Commission* has been notified by the Licensee or otherwise becomes aware of any of the circumstances set out in Clause 1 of this Condition 5 and the *Commission* has determined that such a person or group of persons is not fit and proper, the *Commission* may :
 - a. impose such conditions as it deems necessary; **or**
 - b. after consultation and with the consent of the Government revoke the Licence where it determines that such revocation is necessary for reasons of national security or the public interest of the Commonwealth of Dominica.

Condition 6: General Obligations of the Licensee

1. The Licensee shall be a company incorporated in the Commonwealth of Dominica.
2. The Licensee shall purchase, transmit, distribute and supply electricity in the *Service Territory* consistent with internationally accepted standards of prudent utility practice.
3. Subject to the provisions of this Licence and directions of the *Commission*, the Licensee shall ensure that the development of the *System* is implemented based on agreed long term planning procedures and methodologies and that investments are made consistent with such plans and in conformity with prudent utility practice so as to ensure adequacy

and continuity of supply at the least economic cost while at the same time ensuring that the Licensee earns a reasonable return on its investment.

4. The Licensee shall provide transmission access and service, and interconnection access and service, on a non - discriminatory basis to the facilities that it operates and as soon as practically possible in response to service requests by generation and/or transmission licencees.
5. The Licensee shall comply with the provisions of the generation code, the transmission and distribution code or any other codes developed to assure the safety and integrity of the *System*, the safety and well-being of the public and the protection of the environment.
6. The Licensee shall comply with the *ESA* and any other Act of the Commonwealth of Dominica that has application to it in the discharge of its performance under this Licence.
7. Subject only to its exclusive rights conferred under this Licence, the Licensee shall
 - a. not take or omit to take any action or otherwise conduct itself in a manner which is intended to have, has or is likely to have the effect of restricting, distorting or preventing competition in the procurement of generation capacity; and
 - b. comply with any direction issued by the *Commission* for the purpose of preventing any practice or arrangement that has the object or effect of preventing, restricting or distorting such competition .
8. Subject to Condition 17, the Licensee shall comply with any directive, order, rule, decision or approval issued, made or granted by the *Commission* in accordance with its duties and functions under the *ESA*.
9. The Licensee shall pay the *Licence Processing Fees* to the *Commission*.

Condition 7: Reporting Obligations

1. The Licensee shall furnish to the *Commission*, without undue delay, such information, documents and details related to the *Transmission, Distribution and Supply Business*, as the *Commission* may reasonably require in order for it to fulfill its functions and discharge its obligations under the *ESA*.
2. The Licensee shall consolidate its reports as required under its *Generation Licence* and submit these where practicable and convenient as an integral part of the reports that are required under this Licence.

3. The Licensee shall submit to the *Commission* the reports detailed at Schedule 1 within the times specified therein.
4. The Licensee shall provide such other specified and relevant reports to the *Commission* as may be reasonably required from time to time.
5. The Licensee shall annually prepare and submit to the *Commission* a five year forecast of projected loads and generation requirements.
6. The Licensee shall, annually, provide the *Commission* with its capital investment plan and updated five year capital investment plan.
7. The Licensee shall, in accordance with good industry practice, maintain and keep all appropriate books, records and accounts in respect of the activities to which this Licence relates.

Condition 8: Audit Rights of the Commission

1. Pursuant to its powers under Sections 19 and 39 of the ESA, the *Commission* or its authorized agents may during the normal business hours and subject to prior reasonable notice attend at any premises from time to time owned or occupied by or in the possession of the Licensee for the purpose of undertaking audits, inspecting any books, records and accounts of the Licensee to which this Licence relates and may require the Licensee to give to the *Commission* such reasonable assistance in connection with the audit and examination as may be necessary. Notwithstanding this obligation, the Licensee shall not be compelled to provide information which it could not be required to reveal in a civil action. The Licensee shall at the request of the *Commission* furnish the *Commission*, at the Licensee's expense, with a copy (in such format as the *Commission* may specify) of any book, record or accounts as the *Commission* may reasonably require.

Condition 9: Licence fees and Regulatory fees

1. The Licensee shall be liable for the payment of such Licence or other fees as may be imposed by the *Commission* pursuant to Section 17 of the ESA.

Condition 10: Early Retirement of Assets

1. The Licensee may retire assets, provided that any decision to retire assets early shall be subject to the approval of the *Commission* which approval shall not be

unreasonably withheld. On any early retirement of assets, the Licensee shall be allowed to recover the net book value of all transmission and distribution assets whether those assets are on its books at the *Commencement Date* of this Licence or are additions to the Licensee's Rate Base during the term of the Licence. This financial recovery shall be independent of whether these assets are physically retired before the end of their book life based on economic evaluation or any change in Government policy or regulatory action. Such recovery shall take place through the continued depreciation of such assets until the end of their book life. The Licensee's accounting for any retirement will be in accordance with the depreciation schedule attached at Schedule 2 of this Licence and the Licensee's Rate Base shall not otherwise be affected by such retirement.

Condition 11: Economic Purchasing of Goods and Services

1. The Licensee shall exercise prudence in the purchase or acquisition of goods and services having regard to the quantity, timing and nature of the goods or services required to enable it to discharge its obligations under this Licence.
2. The Licensee shall, if requested by the *Commission*, submit its procedures for procurement to the *Commission*.
3. Nothing in the foregoing shall preclude the Licensee from outsourcing for goods and services through or from a *related party* so long as the Licensee can demonstrate at all times that such procurement is on terms which would obtain if such goods and services were procured competitively.

Condition 12: Related Party Transactions

1. In the case of a *Related Party*, transactions shall be at arm's length and the Licensee shall apply the same tests for economic choice and financial probity as if the *Related Party* were an unrelated third party.

Condition 13: Amendment of Licence

1. The provisions of Section 35 of the ESA and any related orders and regulations issued by the *Commission*, as amended from time to time, shall determine the procedure for amendment of the Licence.

2. The Licensee may apply to the *Commission* for a reconsideration of its decision regarding any amendment of this Licence and may appeal any decision made by the *Commission* following any such reconsideration in accordance with Condition 17.

Condition 14: Obligation to Comply with Licence

1. Where the Licensee fails to comply with any obligation imposed by the Licence or contravenes the Licence, the *Commission* shall first cause a notice to be served on the Licensee requiring the Licensee to comply with the obligation or rectify the contravention within a reasonable period specified in the notice, before any further action is taken by the *Commission*.
2. The *Commission* may not exercise its powers to enforce obligations imposed by the Licence if the non-compliance by the Licensee –
 - (a) was discovered, or ought reasonably to have been discovered, more than 3 years before the exercise of the power; or
 - (b) occurred more than six years before the exercise of the power.
3. However, once the *Commission* has exercised a power in relation to the non-compliance, the limitations in Clause 2 of this Condition 14 do not apply thereafter.

Condition 15: Revocation of Licence

1. The *Commission* may initiate proceedings to revoke this Licence, pursuant to Section 34 of the *ESA* and any regulations established by the *Commission*, as amended from time to time, where the Licensee:
 - a. is in material breach of this Licence in terms of the operation of the Licence as a whole;
 - b. repeatedly contravenes the *ESA* or any other relevant Act;
 - c. is dissolved;
 - d. is wound up or adjudged bankrupt;
 - e. is struck off the Register of Companies and fails to be reinstated in good standing within 90 days thereof;
 - f. obtained this licence by false, fraudulent or misleading representation or in some other illegal manner; or
 - g. having been notified by the *Commission* of the breaches of the Licence that would lead to revocation, fails to rectify such breaches within the period stipulated in the notice.
2. Notwithstanding the provisions above, the *Commission*, after consultation with and receiving the consent of the *Government*, may initiate revocation

procedures for reasons of national security or the public interest of the Commonwealth of Dominica.

3. Notwithstanding Clause 1 of this Condition 15, the *Commission* may, in lieu of revocation, exercise its options pursuant to Section 34 (1) of the *ESA*, if it is in the public interest to do so.
4. The procedure to be followed for revocation shall be as set out in Section 34(2) of the *ESA*.
5. Upon revocation of this Licence, the *Commission* shall give notice, pursuant to Section 34 of the *ESA* of its intention to compel compulsory divestiture of the Company. The price shall be at *Fair Market Value*.
6. Notwithstanding the issuance of the revocation notice, the Licensee shall, unless requested otherwise by the *Commission*, continue to operate the *System* in accordance with prudent utility practice or at the same standards that were used to operate the *System* prior to the date of the revocation notice, whichever is higher.
7. The *Commission* shall undertake to locate a successor licensee as expeditiously as possible and in any event within 24 months after compelling compulsory divestiture of the Company.
8. If no sale is satisfactorily concluded within the said period the *Minister* or his designee shall acquire the Company at *Fair Market Value*.
9. At any time after the revocation of the Licence but prior to the sale of the Licensee pursuant to this Condition 15, if the Licensee demonstrates to the reasonable satisfaction of the *Commission* that the failures which gave rise to the revocation (and any ensuing failures) have been cured and the Licensee is capable of fulfilling its obligations under the Licence, the *Commission* may, on the request of the Licensee or on its own authority at any time withdraw the revocation notice and notify the Licensee that *the Commission* is no longer seeking offers for the purchase of the Licensee.
10. The Licensee may apply to the *Commission* for a reconsideration of its decision to revoke this License and may appeal any decision made by the *Commission* following any such reconsideration in accordance with Condition 17.

Condition 16: Force Majeure

1. To the extent that the Licensee is prevented by *Force Majeure* from carrying out, in whole or in part, its obligations under this Licence and the Licensee

gives notice and details of the *Force Majeure* to the *Commission* as soon as practicable, then the Licensee shall be excused from the performance of its specific obligations prevented by the *Force Majeure* conditions during the period for which the *Force Majeure* conditions apply. The Licensee shall take all reasonable and necessary steps to enable it to perform such obligations with all reasonable dispatch after the period of the *Force Majeure*

Condition 17: Reconsideration and Appeal of Commission Decisions

1. Where the Licensee is aggrieved by a decision of the *Commission* (hereinafter called "The original decision") it shall, within thirty days of the receipt of the original decision and written reasons therefor, apply in the prescribed manner to the *Commission* for reconsideration of that original decision and may present further relevant information to the *Commission* upon such reconsideration.
 - a. On the making of an application under Clause 1 of this Condition 18 the original decision shall not take effect until a reconsideration is made.
 - b. The *Commission* shall convene the proceedings constituting the reconsideration of the original decision within 14 days of the receipt of the application from the Licensee.
 - c. After reconsidering its original decision, the *Commission* shall confirm, amend or reverse its original decision or any part thereof and render its determination within a reasonable period of time not to exceed twenty-eight days after conclusion of the proceedings.
 - d. Where the original decision is confirmed, the confirmation shall be deemed to take effect from the date on which the original decision was first made notwithstanding the reconsideration proceedings.
2. An appeal from a reconsideration made by the *Commission* under Clause 1 of this Condition 17 may be made to the High Court on one or more of the following grounds namely -
 - i. that the reconsideration is erroneous in law;
 - ii. that the reconsideration is unreasonable;
 - iii. that the reconsideration is against the weight of the evidence
 - iv. that the reconsideration is contrary to the principles of natural justice;
 - v. that the reconsideration is not proportionate; or
 - vi. that the *Commission* lacks jurisdiction.

2.1. An appeal to the High Court from a reconsideration by the *Commission* shall be in accordance with the provisions of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, as amended from time to time.

2.2. The *Commission* may seek an order from the High Court directing the *Commission* to file under seal any information if it is considered that the public interest would suffer by disclosure of such information.

2.3. On appeal to the High Court against a reconsideration of the *Commission* the execution of the original decision shall not take effect until the hearing of the appeal.

3. Any party to an appeal before the High Court under this Condition who is dissatisfied with a decision or order of the High Court may appeal to the Court of Appeal. The Eastern Caribbean Supreme Court (Dominica) Act Chap 4:02 and the Eastern Caribbean Supreme Court Civil Procedures Rules 2000 apply to the appeal.

Condition 18: Notices and Communication

Notices, orders and other documents under this Licence may be in writing or in print or in electronic format (permitting confirmation of receipt) and shall, if served on:

a. *the Commission* be addressed to:

The Executive Director; and

b. the Licensee, be addressed to:

The Managing Director/Chief Executive Officer.

2. Any notice, order or document required or authorized to be served upon any body or person under this Licence may be served by the same being addressed to such body or person and being left at or transmitted by electronic mail or facsimile or by registered post to the address of such body or to the usual or last known place of abode of such person. If served by post it shall be deemed to have been served at the time when the containing letter would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that such letter was properly addressed, registered and put into the post. If served by electronic mail or facsimile it shall be deemed to have been served when the electronic mail or facsimile shall have been transmitted by the sender.

3. Notwithstanding the above, the Licensee shall designate a person that will act as a primary contact with the *Commission* on matters related to this Licence. The Licensee shall notify the *Commission* promptly should the contact details change.

PART III: SPECIAL CONDITIONS APPLICABLE TO THE LICENSEE AS SYSTEM OPERATOR

Condition 19: Duties as System Operator

1. The Licensee shall be responsible for dispatching sufficient generating capacity to meet *System* requirements in a prudent manner taking into consideration various operating considerations, including but not limited to least-cost, planned and forced generator maintenance schedules and operating reserves (both on-peak and off-peak) and subject to the terms and conditions of any *PPAs*.
2. The Licensee shall as far as is practicable and safe dispatch available generation in such a manner that the energy produced and dispatched is at the least cost to consumers.
3. The Licensee may purchase some or all of its energy and/or capacity requirements from *Independent Power Producers* pursuant to relevant *PPAs*.
4. The Licensee may purchase the electricity output from renewable or alternate energy sources on an energy only or capacity and energy basis as appropriate in accordance with the procedures agreed with or established by the *Commission* and subject to relevant *PPAs*.
5. The Licensee is responsible for the procurement of adequate generation supply, in terms of required energy, capacity and ancillary services to fully meet the needs of its consumers, subject to the procedure for addition of capacity established by the *Commission* in accordance with its policy document, "Regulatory Policy and Procedure - Adding Capacity to the Public Electricity Supply System 2008/002/D", as amended from time to time.
6. The Licensee must ensure that adequate reserve generating capacity, both spinning and cold standby, is available at all times to meet the guidelines promulgated by the Commission. The Licensee may provide such reserve capacity itself or may contract some or all of it to any base-load *Independent Power Producer* with whom a *PPA* has been signed.

7. In the event of a *Catastrophic Failure* the Licensee shall take such actions as may be prudent, in consultation with the Commission, to secure adequate replacement capacity.
8. Except as authorized by the *Commission* in connection with purchases of renewable energy from customer-owned generation for self-supply, the Licensee shall not purchase electricity from any *Person* other than an *Independent Power Producer* and may not purchase electricity from an *Independent Power Producer* except in accordance with the relevant PPA.
9. Subject to satisfactory inspection of the interconnection on behalf of the *Commission* and by the Licensee, consumers who generate renewable energy for self-supply may sell energy to the Licensee, and the Licensee may purchase such renewable energy at rates to be proposed by the Licensee and approved by the *Commission*. The Licensee shall file with the *Commission*, from time to time, its proposals that describe the basis on which, and the rates at which such consumers may sell energy to and purchase energy from the Licensee, which proposals will be subject to the *Commission's* review and approval.

Condition 20: Duty to secure long term system security and reliability

1. The Licensee shall periodically prepare and update, in accordance with internationally accepted best industry practice, an Integrated Resource Plan and Least Cost Expansion Plan.
2. The *Commission*, when satisfied, after due consultation, that the plans represent the least economic cost for system expansion consistent with internationally accepted best industry practice, will approve the plans following which the Licensee shall implement the approved plan.
3. Notwithstanding Clause 1 of this Condition 20, the Licensee shall prepare and/or update the Least Cost Expansion Plan at any time when reasonably requested by the *Commission* taking into account internationally accepted best industry practice.
4. Complementary to the provisions of clauses 1, 2 and 3 of this Condition 20, the Licensee shall on an annual basis prepare and publish a statement in a form approved by the *Commission* showing in respect of each of the five succeeding financial years circuit capacity, forecast power flows and loading on each part of the transmission, distribution and supply system and fault levels for each conveyance node, together with:

- a. information on the status of conveyance capacity and the anticipated future requirements of system capacity;
- b. a commentary prepared by the Licensee indicating the Licensee's views as to those parts of the Transmission and Distribution System most suited to new connections; and
- c. such other matters as shall be specified in directions issued by the *Commission* from time to time for the purposes of this Condition 20;

provided that the *Commission* may, upon application of the Licensee, relieve the Licensee from the obligation to prepare any such statement in respect of any period and any part or parts of transmission, distribution and system specified in directions issued to the Licensee by the *Commission* from time to time for the purposes of this Condition 20.

5. The Licensee may, with the prior agreement of the *Commission*, omit from any such statement (excluding the copy provided to the *Commission*) any details as to circuit capacity, power flows, loading or other information, disclosure of which would, in the view of the *Commission*, seriously and prejudicially affect the commercial interests of the Licensee or any third party.
6. The Licensee may periodically revise the information set out in and, with the approval of the *Commission*, alter the form of the statement prepared in accordance with Clause 1 of this Condition 20 and shall, at least once in every year that this Licence is in force, and at such other intervals, as the *Commission* may direct, revise and republish such statement in order that the information set out in the statement shall continue to be accurate in all material respects.
7. The Licensee shall send a copy of the statement prepared in accordance with Clause 1 of this Condition 20 and of each revision of such statement in accordance with Clause 3 of this Condition 20 to the *Commission* and the *Commission* may direct the Licensee to change any matters in the statement and the Licensee shall comply with such directions.
8. The Licensee shall publish the statement, and any subsequent revisions, specified at Clause 1 of this Condition 20 on its website.

Condition 21: Merit Order Dispatch

1. The Licensee shall dispatch sufficient generating capacity to meet the *System* requirements in a prudent manner having regard to various operating conditions including but not limited to least cost, planned

generator maintenance schedules and operating reserves. In this regard, the Licensee shall:

- a. establish and operate a merit order system, for *Generation Sets* that are subject to central dispatch.
 - b. schedule and issue direct instructions for the dispatch in accordance with the merit order system, as established, of all available *Generation Sets* which are required or are agreed to be subject to such scheduling and instructions.
2. The Licensee shall provide monthly reports to the *Commission* on its dispatch of generators, including a load duration curve for the peak day in the month, status of plant in service, capacity factor, fuel efficiencies and any other information which the *Commission* shall reasonably request.

PART IV: SPECIAL PROVISIONS APPLICABLE TO TRANSMISSION AND DISTRIBUTION

Condition 22: Duties of the Licensee

1. The Licensee shall develop and maintain an efficient, coordinated and economical system of electricity transmission and distribution in the *Service Territory*.
2. Subject to the provisions of its Licence and to technical and economic constraints regarding access to the *System*, the Licensee shall provide access to its transmission and/or distribution system as appropriate, and interconnection access and service, on a non-discriminatory basis to facilities that it operates on requests by *IPPs* and, where appropriate, other transmission licensees.
3. Subject to consent by both parties, any dispute as to the terms and conditions on which such transactions take place may be determined by the *Commission*.
4. The Licensee shall have no obligation to connect *IPPs* until after the parties have agreed that the installation and commissioning have been completed to the satisfaction of both parties. If there is disagreement either party may apply to the *Commission* to appoint a *Technical Inspector* to determine the issue.

Condition 23: Standards

1. The Licensee shall design, build, operate and maintain the *Transmission System* and the *Distribution System* in accordance with the latest revisions of the Standards issued by recognised international standards institutions such as the International Electrotechnical Commission (IEC); the Institute of Electrical and Electronic Engineers (IEEE); the American National Standards Institute (ANSI); the British Standards Institute (BSI); the Institution of Engineering and Technology (IET).
2. The Licensee shall propose standards to the *Commission* for its approval.
3. Within 180 days of the *Commencement Date* of this Licence, the Licensee shall deposit with the *Commission* a schedule of the applicable standards that relate to its transmission and distribution operations along with the references in soft copy.

Condition 24: Technical Service Levels

1. The Licensee shall design, build, operate and maintain the *Transmission System* and *Distribution System* so as to ultimately achieve service levels in line with applicable industry best practice for similar systems and such other benchmarks as the *Commission*, after consultation with the Licensee, may direct from time to time.
2. Without limiting the requirements of Clause 1 of this Condition 24, within 180 days of the *Commencement Date* the Licensee shall submit to the *Commission* a plan setting out its strategy for achieving the target service levels that will have been established in accordance with Clause 1 of this Condition 24.
3. The *Commission* may direct the Licensee to update and resubmit the plans from time to time.
4. The *Commission* may direct the Licensee as to matters to be included in the plans and may amend or replace such direction from time to time.
5. The service level targets and the plans submitted by the Licensee or any revisions thereof, once approved by the *Commission*, shall form part of this Licence as a Condition.
6. Within sixty days of the end of each six month period, the Licensee shall provide the *Commission* with a written report on its achievements under the plans during the preceding six month period, as set out in

Clause 2 of this Condition 24.

7. The Licensee shall comply with any directions issued by the *Commission* from time to time, regarding any other quality of service indicators and measurement methods for the *Transmission Distribution and Supply Business* and shall, as and when required, supply to the *Commission* the results of its measurements of actual performance against any quality of service indicators and measurements so specified, and the *Commission* may publish or require publication of such information as it considers appropriate.

Condition 25: Development of and Compliance with Technical and Operational Codes

1. The Licensee shall, in consultation with any other Licensee liable to be materially affected thereby and such other persons as the *Commission* shall consider appropriate, develop and implement, at the request of the *Commission*, such technical and operational codes as the *Commission* may, from time to time, direct.
2. The Licensee shall, in consultation with any other Licensee liable to be materially affected thereby and such other persons as the *Commission* shall consider appropriate, periodically review (including at the request of the *Commission*) such technical and operational codes as are developed and implemented by the Licensee pursuant to Clause 1 of this Condition 25.
3. Following the development of any technical and operational codes pursuant to Clause 1 of this Condition 25 and the review of any such codes, the Licensee shall send to the *Commission*:
 - (a) a report on the outcome of any consultation and of the review as the case may be; and
 - (b) any proposed revisions to any such code from time to time as the Licensee (having regard to the outcome of any consultation or review) reasonably thinks necessary; and
 - (c) any written representations or objections from any Licensee arising during the consultation process and not withdrawn.
4. Having considered the information provided pursuant to Clause 3 of this Condition 25 and such other relevant information, the *Commission* may direct the Licensee to change any technical and operational codes developed pursuant to Clause 1 of this Condition 25 and the Licensee shall comply with such directions.

5. The Licensee shall give or send a copy of all approved technical and operational codes (and any revisions thereto) developed and implemented by the Licensee pursuant to this Condition 25 to the *Commission* and at the same time the Licensee shall make this information available generally by way of publication on the Licensee's website
6. The Licensee shall comply with the provisions of any approved technical and operational codes insofar as applicable to it.
7. The *Commission* may, following consultation in relevant circumstances with any Licensee liable to be materially affected thereby and such other Licensees and other parties as the *Commission* shall consider appropriate, issue directions relieving the Licensee of its obligation under clause 6 of this Condition 25 in respect of such part or parts of any approved technical and operational codes to such extent as may be specified in those directions.

PART V: SPECIAL PROVISIONS FOR SUPPLY

Condition 26: Duties of the Licensee

1. The Licensee shall design, build, operate and maintain an efficient coordinated and economical system of electricity supply to consumers and its customers, in the *Service Territory*.
2. The Licensee shall at all times during the term of this Licence or any extension thereof furnish and maintain a supply of electricity for public and private use in accordance with reasonable standards of safety and dependability as understood in the electricity supply business.
3. The Licensee has a duty to connect any person desiring to obtain electric service that enters or is qualified to enter into an agreement with the Licensee in accordance with the provisions of the *ESA*.

Condition 27: Technical Service Levels

1. The Licensee shall design, build, operate and maintain the electricity supply system so as progressively to achieve service levels in line with international best practice and such other benchmarks as the *Commission*, after consultation with the Licensee, may direct from time to time.

2. Without limiting the requirements of Clause 1 of this Condition 27, within 180 days of the *Commencement Date* the Licensee shall submit to the *Commission* a plan setting out its strategy for achieving the target levels that will have been established in accordance with Clause 1 of this Condition 27.
3. The *Commission* may direct the Licensee to update and resubmit the plans from time to time.
4. The *Commission* may direct the Licensee as to matters to be included in the plans and may amend or replace such direction from time to time.
5. The service level targets and the plans submitted by the Licensee or any revisions thereof, once approved by the *Commission*, shall form part of this Licence as a Condition and the Licensee shall be deemed to be in breach of its Licence if the target levels are not achieved.
6. Within sixty days of the end of each six month period, the Licensee shall provide the *Commission* with a written report on its achievements under the plans during the preceding six month period, as set out in Clause 2 of this Condition 27.
7. The Licensee shall comply with any directions issued by the *Commission* from time to time, regarding any other quality of service indicators and measurement methods for the supply business and shall, as and when required, supply to the *Commission* the results of its measurements of actual performance against any quality of service indicators and measurements so specified, and the *Commission* may publish or require publication of such information as it considers appropriate.

Condition 28 Standards

1. The Licensee shall design, build, operate and maintain the supply infrastructure in accordance with such of the applicable standards issued by recognised international standards institutions such as the International Electrotechnical Commission (IEC); the Institute of Electrical and Electronic Engineers (IEEE); the American National Standards Institute (ANSI); the British Standards Institute (BSI); the Institution of Engineering and Technology (IET).
2. Within 180 days of the date of this Licence, the Licence shall deposit with the *Commission* a schedule of the applicable standards that relate to its supply operations along with the references in soft copy.

Condition 29: Security and Safety of Supply

1. The Licensee shall make arrangements to keep each of its customers informed of the postal address and telephone number of an enquiry service established and operated for the purposes of receiving reports from any person about any matter or incident that:
 - a. causes danger or requires urgent attention, or is likely to cause danger or require urgent attention, in relation to the supply of electricity; or
 - b. affects or is likely to affect the security, availability or quality of service of the Licensee's supply system through which the relevant customer is supplied with electricity.

2. The enquiry service referred to at Clause 1 of this Condition 29 must be:
 - a. available to receive and process telephone reports and enquiries at all times on every day of each year; and
 - b. operational on the *Commencement Date* of this Licence.

3. The Licensee may discharge the duty imposed by Clause 1 of this Condition 29 by providing the requisite information to each of its customers on the occasion of the customer first commencing to take a supply from the Licensee and thereafter:
 - a. either:
 - i. where bills or statements in respect of charges for the supply of electricity are rendered to the customer, on a quarterly basis (it being sufficient that the information is included on or with any bill or statement); or
 - ii. in any other case, on an annual basis; or
 - b. by publishing such information on its web site and in such other manner as will, in the opinion of the Licensee, secure adequate publicity for it.

Condition 30: Preparation, Review of and Compliance with Codes of Practice

1. The Licensee shall, within twelve (12) months of the *Commencement Date* of this Licence coming into force prepare codes of practice setting out the principles and procedures the Licensee will follow in respect of the requirements of Section 33 (3), (4), (5) and (7) of the *ESA* and the various matters that affect customers. These include but are not limited to:
 - a) efficient use of energy.

- b) payment of bills.
 - c) handling customer complaints.
 - d) access to customers' premises.
 - e) connections and disconnections; and
 - f) meter reading.
2. Notwithstanding Clause 1 of this Condition 30, the Licensee may issue codes of practice on its own volition.
3. The Licensee may review a code and the manner in which it has been operated with a view to determining whether any modification should be made to that code or to the manner of its operation, and shall do so on its own volition or whenever directed to by the *Commission*.
4. Pursuant to the review undertaken under Clause 3 of this Condition 30 the *Commission* may, after consultation with the Licensee, approve any amendments or modifications (including deletions) to a code. In addition the *Commission* may issue directions to the Licensee to provide information to the *Commission* or to notify the *Commission* of matters affecting the Licensee's customers where such matters are relevant to the issues addressed by the codes.
5. The Licensee shall:
- a) as soon as practicable following the preparation of a code or any revision made to it, send to the *Commission* a copy of the code or such revision in the form approved by the *Commission*;
 - b) draw to the attention of its customers the existence of the codes and each substantive revision of each of them and how they may inspect or obtain a copy of the codes in their latest form;
 - c) make a copy of the codes available for inspection by members of the public at each of the **relevant premises** during normal opening hours;
 - d) give or send, at a reasonable charge, a copy of the codes (as from time to time revised) to any person who requests it.
6. Subject to Clause 8 of this Condition 30, the Licensee shall ensure that it complies with the terms of and the arrangements or procedures (as the case may be) as are contained in or described by each code to which this Condition applies or any revision to such codes approved by the *Commission*.

7. The Licensee shall provide the *Commission* with all assistance reasonably necessary to enable the *Commission* to monitor the implementation and operation of any code and this assistance shall include permitting the *Commission* access to relevant documentation held by the Licensee.
8. The *Commission* may (following consultation with the Licensee and such other parties as the *Commission* considers appropriate) issue directions relieving the Licensee of any of its obligations under this Condition 30 to such an extent as may be specified in those directions and subject to such terms and conditions as the *Commission* thinks fit.
9. In this Condition "**relevant premises**" means any premises of or occupied by the Licensee or any associated company or related undertaking of the Licensee open to customers in the normal course of the Licensee's business.

Condition 31: Joint Use of Poles

1. The Licensee may enter into any arrangement or contract for the joint use of poles with Subscriber Television (STV) companies or telecommunications service providers so long as such use shall not contravene any other law or violate any safety code or, in the sole opinion of the Licensee, provide an unsafe working condition for the Licensee's employees. Such arrangements or contracts must be deposited with the *Commission*.
2. The Licensee shall publish a code of practice for use by STV companies and telecommunications service providers, setting out the procedures that are in place for management of these joint-pole arrangements and the standards for use of its poles by these companies. A copy of this code of practice, along with the scale of charges that may be in effect for the time being must be deposited with the *Commission*.
3. The prices which the STV companies and telecommunications service providers are charged by the Licensee for attachments to its poles shall be fair and reasonable.

PART VI: PRICE CONTROLS AND TARIFFS

Condition 32: Price Control Mechanism

1. Tariff Principles

The *Commission* shall determine the Licensee's rates for electric power pursuant to its powers under the *ESA* and on the principles set out in the *Commission's* Decision Document: Tariff Regime for Dominica Electricity Services Ltd.; Document Ref. 2009/004/D as amended from time to time.

Condition 33: Initial Tariff Review

1. DOMLEC shall, within 7 days of the Commencement Date, submit a timetable for the filing of an application to the Commission for a tariff review, and that the date for such a filing shall not be later than 9 months after the Commencement Date without the approval of the Commission. The application for a tariff review shall be in the format set out in the Commission's Decision Tariff Regime for Dominica Electricity Services Limited - Document Ref 2009/004/D and the tariff review shall be conducted in accordance with the process set out in that Decision.

PART VII: TRANSITIONAL PROVISION

1. On the *Commencement Date*, in order to enable a smooth transition to the full force and effect of this Licence, all conditions which would normally have effect under the *ESA* and Rules, Directives or Determinations of the *Commission* shall remain in effect until such time that these are logically and practically superseded by the actions taken under this Licence.

SCHEDULES

Schedule 1 - Reporting Requirements

Annual Reporting - Due 120 days after end of financial year

Item	Description
1. Audited Financial Statements and Annual Report	The Licensee's audited financial statements
2. Statement of Operating & Maintenance Expenses By Department	A breakdown of the expenses line items in the audited financials to the various cost components
3. Fixed Asset Summary	A reconciliation of additions and reductions to fixed assets and accumulated depreciation by asset class
4. Regulatory Asset Summary	A reconciliation of the change in the balances for the year
5. Annual Return on Rate Base	A calculation showing the Licensee's actual return on rate base
6. Accounts Receivable Summary	Breakdown of A/R by aging bucket and a reconciliation of the bad debt expense
7. 10 year Operations and Financial statistics	Annual operating statistics which conform to internationally accepted utility industry practices and annual financial statistics which conform to International Financial Reporting Standards (IFRS) on a rolling ten year basis (usually included with Annual Report)

Quarterly Reporting - due 30 days after the end of the reporting period

Item	Description
1. Sales & Revenue summary	A summary by month of sales and revenue by customer class for the quarter and year to date.
2. Outage Summary	A summary of the outage events by month reporting date, duration, customers impacted and cause of the outages
3. Operating statistics	Operating statistics relevant to monitoring the reliability of the T & D System such as the System Average Interruption Duration Index (SAIDI), the System Average

	Interruption Frequency Index (SAIFI) and the Customer Average Interruption Duration Index (CAIDI) and such other internationally accepted utility industry performance indicators as the Commission may direct.
4. Standards of Service Report	A report detailing the Licensee's performance against target, including a summary of claims received and time to settle claims, for its Guaranteed as well as for Overall Standards for the quarter and year to date.

Monthly Reporting – 30 days after the end of the reporting period

Item	Description
1. Efficiency of Load dispatch and generation operations	Reports providing data on the economic load dispatch and, generation operations in a format to be agreed with Commission from time to time
2. System Losses	A report showing rolling 12 month system losses
3. Load Duration Curve	A graph showing the load curve for the 24 hour period on the day the peak is set for that month
Monthly operating statistics	Monthly detail of energy sales, peak demands and numbers of customers in each billing class
Financial results	Monthly financial reports in the standard company format

Major Outage Report

Item	Description
1. Major Outage Report	Within 24 hours of a major outage, a report will be filed with the <i>Commission</i> . A major outage is defined as one that affects a significant geographic area and lasts longer than 2 hours or any island wide blackout.