ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P175

PUBLIC UTILITIES COMMISSION ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates:
Act 6/2003, in force 7 April 2004
Act 4/2007, in force 23 May 2007
Act 1/2014, in force 21 February 2014

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PUBLIC UTILITIES COMMISSION ACT

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PUBLIC UTILITIES COMMISSION ACT

PART 1

PRELIMINARY

Interpretation

1. (1) In this Act—

"Appeal Tribunal" means the tribunal established by Part 8;

"Board" means the Board established under section 3;
(Act 1/2014, s. 2)

"Code" means the Utilities Code issued by the Commission under section 54;

"Commission" means the Public Utilities Commission established under section 2;

"Commissioner" and "member" means a person appointed to be a member of the Board under Section 3;
(Act 1/2014, s. 2)

"Court" means the High Court;

"customer" includes a potential customer;

"designated enactment" means each of the Acts listed in Schedule 1 and includes the regulations made under each of these Acts;

"Electricity Act" means the Electricity Act;

"enactment" means an Act and includes the regulations made under an Act;

"frequency authorisation" has the meaning given to it in the Telecommunications Act;

"Minister" means the Minister responsible for public utilities;
(Act 1/2014, s. 2)

"Ministry" means the Ministry responsible for public utilities;
(Act 1/2014, s. 2)

"operator" has the meaning given to it in the Telecommunications Act;

"prescribed" means prescribed by regulations made under section 53;

"public suppliers licence" means a public suppliers licence issued under the Electricity Act and "public supplier" means a person holding a public suppliers licence;

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"public utility" means such person or category of persons (other than a telecommunications supplier, to the extent it is subject to the Telecommunications Act), if any, as may be prescribed;

"service provider" has the meaning given to it in the Telecommunications Act;

"significant interest", in respect of a company, means a holding or interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person and whether legally or equitably, that entitles or enables the person, directly or indirectly—

(a) to control 10% or more of the voting rights of that company at a general meeting of the company;

(b) to a share of 10% or more in dividends declared and paid by the company; or

(c) to a share of 10% or more in any distribution of the surplus assets of the company;

"tariff customer" means a customer of a public utility with whom the public utility has not entered into a special agreement under section 28,

"telecommunications" has the meaning given to it in the Telecommunications Act;

"Telecommunications Act" means the Telecommunications Act;

"telecommunications network" has the meaning given to it in the Telecommunications Act;

"telecommunications service" has the meaning given to it in the Telecommunications Act;

"telecommunications supplier" means—

(a) a person licensed under the Telecommunications Act to operate a telecommunications network; and

(b) a person licensed under the Telecommunications Act to provide a telecommunications service.

(2) Unless this Act provides otherwise or the context otherwise requires, words and expressions defined in a designated enactment have the same meaning in this Act.

PART 2

THE PUBLIC UTILITIES COMMISSION

Establishment

2. (1) The Public Utilities Commission is established.

(2) The Commission is a body corporate with perpetual succession and a common seal, which may sue and be sued in its corporate name.

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(3) Schedule 2 has effect with respect to the administration of the Board.
(Act 1/2014, s. 6(2))

Establishment and membership of the Board

3. (1) The affairs of the Commission shall be managed by a Board consisting of 5 Commissioners.

(2) The Commissioners shall be appointed by the Governor in Council in the following manner—

(a) a person who has academic qualifications and technical expertise in the regulation of any public utility;

(b) a person who has academic qualifications and work experience relating to finance, accounting or economics;

(c) a person who has academic qualifications and work experience relating to business administration, management, law, public administration, compliance or regulatory matters or corporate governance;

(d) a person who the Governor in Council considers to be fit and proper and has demonstrated some knowledge and expertise in matters that may aid the Commission in the performance of its function; and

(e) the Executive Director appointed under section 6.

(3) The Governor in Council shall designate from among the Commissioners other than the Executive Director, one person to be the Chairman of the Board and one person to be the Deputy Chairman of the Board.

(4) A person is disqualified for appointment as a Commissioner if he—

(a) is a member of the House of Assembly;

(b) is under the age of 18 years;

(c) is an undischarged bankrupt;

(d) is of unsound mind;

(e) has been convicted of an offence involving fraud, corruption or dishonesty, whether in or outside of Anguilla; or

(f) is a public officer.

(5) The appointment of a Commissioner shall be published in the *Gazette*.
(Act 1/2014, s. 3)

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Declaration of interest

4. (1) Before appointing a person (the "proposed appointee") as a Commissioner, the Governor in Council shall require the proposed appointee to provide him with a declaration of interest in the prescribed form.

(Act 1/2014, s. 6(1))

(2) Where, in a declaration made under subsection (1), the proposed appointee declares an interest, the Governor in Council shall not appoint him as a Commissioner unless he is satisfied that the declared interest is not likely to prejudicially affect the exercise and performance by the proposed appointee of his functions as a member of the Board.

(Act 1/2014, s. 6(1) and (2))

(3) Subject to subsection (4), a person who, in a declaration made under subsection (2), makes a false or misleading statement—

(a) commits an offence and is liable on summary conviction to a fine of $25,000, to a term of imprisonment of one year or to both; and

(b) if he is appointed as a Commissioner he is, for the purposes of section 6(2)(f), deemed unfit to discharge his functions as a Commission member.

(Act 1/2014, s. 6(1))

(4) Subsection (3) does not apply to a statement made by a person if that person did not know, or with the exercise of reasonable diligence could not have discovered, that the statement was false or misleading.

Role of the Board

5. (1) The Board is the governing body of the Commission and shall be responsible for—

(a) identifying and classifying all employment positions in the Commission;

(b) appointing suitably qualified persons to senior management positions;

(c) establishing the policies of the Commission and monitoring and overseeing their implementation by senior management;

(d) monitoring and overseeing the management of the Commission by the Executive Director with the objective of ensuring that—

(i) the resources of the Commission are utilised economically and efficiently;

(ii) the internal financial and management controls of the Commission are adequate; and

(iii) the Commission is operated in accordance with principles of good corporate governance;

(e) preparing the estimates and work programme referred to in section 17 of the principal Act; and

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(f) preparing and approving the Commission's accounts under section 18 of the principal Act.

(2) In establishing the policy of the Commission, the Board shall take into account written policy directions given to the Commission by the Minister and these written policy directions shall be immediately published in the *Gazette* by the Ministry.

(3) In the performance of its functions, the Board may—

(a) establish committees as it considers appropriate on terms and conditions as it may determine; and

(b) delegate duties as it considers necessary to the Executive Director.

Appointment and role of Executive Director

6. (1) Subject to subsection (2), the Board shall appoint an Executive Director on terms and conditions that the Board considers appropriate.

(2) Before the Board confirms an appointment of Executive Director, the Board shall consult with the Governor in Council.

(3) The Executive Director shall be an officer of the Commission who shall not engage in any other trade, profession, occupation or business without the consent of the Board.

(4) The Executive Director shall render services exclusively to the Commission except in circumstances where under subsection (3) the Board has given him permission to engage in other employment.

(5) The term of office of the Executive Director shall not exceed 3 years.

(6) A person who has served in the office of the Executive Director shall be eligible for reappointment.

(7) Under the direction of the Board, the Executive Director is responsible for—

(a) the day to day administration of the Commission;

(b) carrying out the duties specified under this Act or as directed by the Board; and

(c) providing technical advice and guidance to the Board on matters of policy.

(8) The Executive Director shall be accountable to the Board for his acts and decisions taken in relation to the performance of his duties.

(9) Whenever the Executive Director is unable to carry out his responsibilities or exercise his powers or is absent from Anguilla, the Board may appoint—

(a) an officer of the Commission to act as Executive Director; or

(b) a person with relevant experience or qualifications to act as Executive Director.

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Secondment of public officers

7. (1) The Governor may approve the secondment of a public officer for service with the Commission as appears necessary for the proper carrying out of its responsibilities and the exercise of its powers.

(2) A seconded public officer shall be employed by the Commission at a remuneration and on terms and conditions of service that are not less favourable than the remuneration and terms and conditions of service that were enjoyed by the public officer immediately before he was seconded.

(3) A public officer seconded under subsection (1) shall, in relation to pension, gratuity and discipline, be treated as if the public officer were not so seconded.

(Act 1/2014, s. 4)

Terms of appointment of Commissioners

8. (1) Subject to this section, the terms of appointment of a Commissioner shall be determined by the Governor in Council.

(2) The appointment of a Commissioner shall be for a term of not less than 2 or more than 3 years and a Commissioner may be appointed for more than one term.

(3) The Commissioners shall be paid such remuneration, allowances and expenses as may be determined by the Governor in Council.

(4) A Commissioner does not act as a delegate of any Government, commercial, financial or other interest with whom he may be connected and shall not accept directions from any person or authority in respect of his duties as a Commissioner.

(Act 1/2014, s. 6(1))

Resignation and removal of Commissioners

9. (1) A Commissioner may at any time resign by giving written notice to the Governor and such resignation is effective upon receipt of the notice by the Governor.

(2) The Governor in Council may, by written notice, remove a Commissioner from office if he is satisfied that the member—

(a) has, without the consent of the other members, been absent from 3 or more consecutive meetings of the Board;

(b) has become bankrupt, that his estate has been sequestrated or that the member has made an arrangement with or granted a trust deed in favour of his creditors;

(c) is or becomes disqualified from being appointed as a Commissioner under section 3;

(d) has an interest that is likely to prejudicially affect the exercise and performance by him of his functions as a Commissioner;

(e) fails to disclose an interest under section 39;

(f) is incapacitated or is otherwise unable to discharge his functions as a Commissioner; or

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(g) is in breach of any condition imposed upon his appointment.

(Act 1/2014, s. 6(2))

(3) If a Commissioner dies, resigns, is removed from or otherwise vacates his office prior to the expiry of the term for which he has been appointed, the Governor in Council shall appoint a new Commissioner to replace him.

(4) An appointment of a Commissioner under subsection (3) may be for the unexpired period of the term of office of the member in whose place he is appointed or for a new term of not less than 2 or more than 3 years.

(Act 1/2014, s. 6(1))

Functions of the Commission

10. (1) The primary function of the Commission is to exercise the powers and functions assigned to it under this Act, the designated enactments and any other enactment.

(2) In discharging its functions, the Commission may take into account any matter which it considers to be appropriate but shall, in particular, have regard to—

(a) the protection of the interests of customers of public utilities and of users of telecommunications networks or telecommunications services;

(b) the need to secure that a public utility is able to finance its activities; and

(c) the impact on the environment of the activities undertaken by public utilities and telecommunications suppliers.

(3) Subject to subsection (1), the Commission has the following general functions—

(a) to secure, as far as it is economical to meet them, that all reasonable demands in Anguilla for electricity, telecommunications and piped water are met;

(b) to secure that public utilities operate in a safe, efficient and economical manner;

(c) to consider and determine applications, where required, for—

(i) public suppliers licences,

(ii) licences, including class licences, and frequency authorisations under the Telecommunications Act, and

(iii) such other licences as may be provided for in any designated enactment;

(d) to regulate and monitor public utilities;

(e) to regulate and monitor telecommunications suppliers and holders of frequency authorisations in accordance with the Telecommunications Act;

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(f) to advise the Minister responsible for public utilities on matters relating to public utilities, including—

(i) the generation, transmission, distribution and supply of electricity, and

(ii) the production, distribution and supply of piped water;

(g) to advise the Minister responsible for telecommunications in accordance with the Telecommunications Act;

(h) to advise the Governor in Council on such amendments to legislation relevant to public utilities and telecommunications as it considers appropriate; and

(i) the publication of such advice or information as it considers would benefit customers of public utilities and users of telecommunications in Anguilla.

Relationship with Governor in Council

11. (1) The Governor in Council may give the Commission written directions of general application concerning the policies of the Government relating to electricity, telecommunications and piped water and relating to environmental issues, and the Commission shall have regard to such directions in carrying out its functions.

(2) The written directions to which subsection (1) refers shall be published by the Commission in the *Gazette*.

(3) The Commission shall, on the written request of the Governor in Council, provide him with such advice, recommendations and information as he may require concerning matters which fall within the functions, duties or powers of the Commission.

General Powers

12. Subject to this Act or any other enactment, the Commission has the power to do all things necessary for, or reasonably ancillary or incidental to, the pursuance of the carrying out of its duties, functions or powers under this Act or any other enactment, including the power to—

(a) acquire, hold, deal with and dispose of real and personal property or any interest therein;

(b) contract with any person for the supply to, or by, the Commission of any goods, services or personnel;

(c) employ such persons, including advisors and consultants, as the Commission considers necessary on such terms as to remuneration, expenses, pensions and other conditions of service as it considers appropriate;

(d) establish and maintain such schemes or make such other arrangements as it considers appropriate for the payment of pensions and other benefits in respect of its officers and employees;

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(e) open and maintain accounts with banks in Anguilla that hold a licence under the Banking Act*;

(f) open and maintain accounts with banks outside Anguilla;

(g) enter into such contracts of insurance as it considers appropriate;

(h) invest any of its funds that are not immediately required for the discharge of its functions;

(i) publish in such manner as it considers appropriate such information relating to its functions and activities as it thinks fit; and

(j) make rules for its administration and the conduct of its proceedings that are not inconsistent with this Act, the Regulations or any other enactment.

Procedures for making decisions

13. (1) In exercising its functions under this Act and the Telecommunications Act, the Board shall, in making significant substantive or procedural decisions that affect persons, observe reasonable standards of procedural fairness, act in a timely fashion and observe the rules of natural justice, and without prejudice to the generality of the foregoing, the Board shall—

(a) prior to making any such decision, publish the matter for decision in the *Gazette*, as required by the Telecommunications Act, or as it deems appropriate;

(b) give to persons who are or who are likely to be affected by such decision an opportunity to make submissions to and to be heard by the Board, or otherwise consult with such persons in good faith;

(c) have regard to the evidence adduced and to the matters contained in any such submissions or otherwise received in the course of such consultations;

(d) give a written statement of its reasons for making such a decision; and

(e) provide notification of the decision pursuant to its rules.

(Act 1/2014, s. 6(2))

(2) For purposes of this section, "significant substantive or procedural decisions that affect persons" means any decisions of the Board to adopt or modify the Telecommunications Code, any regulations, rules, guidelines and policies of the Commission and any other decisions or issuances of the Board having general applicability or effect (including with respect to interconnection), but does not include matters wholly of a ministerial or administrative nature.

(Act 1/2014, s. 6(2))

(3) The Board may, on application or on its own motion, review and rescind or vary any decision made by it or rehear a matter before rendering a decision.

(Act 1/2014, s. 6(2))

* Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

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Directions for the reporting of information

14. (1) The Commission may, by notice published in the *Gazette*, issue directions to public utilities, telecommunications suppliers and persons holding frequency authorisations for the making of returns, or the furnishing of documentation, to the Commission for statistical or regulatory purposes.

(2) A notice under subsection (1) shall specify the period within which returns must be made or documentation furnished.

(3) Directions issued under subsection (1) may make different provision in relation to different persons, circumstances or cases.

(4) A public utility, a telecommunications supplier or the holder of a frequency authorisation that fails, within the period specified, to make a return or furnish documentation to the Commission in accordance with directions issued under subsection (1) commits an offence and is liable on summary conviction to a fine of $5,000.

Power to require information for enforcement purposes

15. (1) The Commission may serve a notice under subsection (2) if it appears to the Commission that a public utility, a telecommunications supplier or the holder of a frequency authorisation may be contravening, or may have contravened—

(a) any condition of its licence, if any, or the frequency authorisation;

(b) this Act; or

(c) the designated enactment to which it is primarily subject.

(2) A notice under this subsection may be served upon any person and may require that person—

(a) to produce to the Commission at a time and place specified in the notice any documents specified or described in the notice that are in his possession or control; or

(b) to furnish to the Commission at the time and place and in the form or manner specified in the notice the information specified or described in the notice.

(3) A person shall not be required to produce any documents or give any information under this section that he could not be compelled to produce or give as evidence in civil proceedings in the Court.

(4) If a person fails to comply with a notice served under subsection (2), the Court may, on the application of the Commission, make such order as it considers fit for requiring the person to comply with the notice and may make such other order, whether as to costs or otherwise, as it considers fit.

(5) A person who without reasonable excuse fails to comply with a notice issued under subsection (2) commits an offence and is liable on summary conviction to a fine of $20,000.

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Scope of sections 14 and 15

16. Sections 14 and 15 do not limit the powers of the Commission to require the furnishing of reports or returns or the provision of documentation or other information given to it under a designated enactment.

PART 3

FINANCIAL AND REPORTING PROVISION APPLICABLE TO COMMISSION

Funds and resources of the Commission

17. (1) The funds and resources of the Commission are—

(a) the levies payable to the Commission under section 24;

(b) such fees, charges or penalties payable under this Act, any designated enactment or any other enactment that may be assigned to the Commission;

(c) any money appropriated by the House of Assembly for the purposes of the Commission;

(d) any money paid and property provided to the Commission by way of grants, fees, charges, rent, interest and other income derived from the investment of the Commission's funds;

(e) any money derived from the disposal of or dealing with real or personal property held by the Commission;

(f) any money borrowed by the Commission in accordance with this Act; and

(g) all other money lawfully received or made available to the Commission.

(2) The Commission may charge a fee in respect of costs reasonably incurred in the performance of its duties under this or any other enactment.

Borrowing powers

18. (1) The Commission may, with the approval of the Governor in Council and to the extent that it considers it necessary to carry out its objects—

(a) borrow money by way of loan, advance or overdraft; and

(b) obtain goods and services on credit.

(2) Notwithstanding subsection (1), the approval of the Governor in Council is not required provided that the total value of—

(a) all money borrowed by the Commission by way of loan, advance or overdraft; and

(b) all goods and services obtained by the Commission on credit;

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does not exceed $40,000.

(3) The Commission may, with the approval of the Governor in Council, give security over the whole or any part of its assets for the repayment of moneys borrowed or credit obtained under this section.

Financial year

19. The financial year of the Commission ends on the 31st December in each year.

Budget and annual work plan

20. (1) The Commission shall, not later than 3 months before the commencement of each financial year, prepare in respect of the financial year, and submit to the Governor in Council—

(a) estimates of—

(i) its expected expenditure, and

(ii) its expected income, if any, arising from any source other than the Government or the annual levy payable under section 21; and

(b) a work programme containing a general description of the work and activities that it plans to undertake in the year, excluding routine activities.

(2) The Governor in Council shall, as soon as practicable, consider the estimates and work programme submitted by the Commission with a view to—

(a) approving them, or either of them, with or without modification; or

(b) remitting them, or either of them, back to the Commission without approval.

(3) The Governor in Council shall not approve the estimates or work plan in modified form unless the Commission has agreed in writing to the modifications.

(4) Where the Governor in Council remits the estimates or the work plan back to the Commission, he shall provide the Commission with the reasons for his non-approval of the estimates or work plan.

Accounts and audit

21. (1) The Commission shall—

(a) keep proper books of account of its income and other receipts and expenditure; and

(b) ensure that—

(i) all money received is properly brought to account,

(ii) all payments out of its money are correctly made and properly authorised, and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Commission.

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(2) The books of account kept under subsection (1) shall—

(a) be sufficient to record and explain its transactions;

(b) enable its financial position to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within 3 months after the end of each financial year, the Commission shall prepare accounts containing—

(a) a statement of the assets and liabilities of the Commission at the end of the financial year;

(b) a statement of the revenue and expenditure of the Commission during the financial year;

(c) such other financial statements for the financial year as may be specified by the Governor in Council; and

(d) proper and adequate explanatory notes to the financial statements.

(4) The accounts shall be audited by such person as may be appointed in respect of each financial year by the Governor in Council.

Annual report

22. (1) Within 3 months of the completion of the audit of the Commission's accounts, the Commission shall submit to the Governor in Council—

(a) a copy of its audited accounts; and

(b) a written report of its operations and activities for that financial year (the annual report) together with a copy of the audited financial statements.

(2) The annual report shall contain such matters as the Governor in Council may prescribe.

(3) On receipt of the annual report and audited accounts of the Commission, the Governor shall, as soon as reasonably practicable, cause them to be tabled in the House of Assembly.

(4) As soon as reasonably practicable after they have been tabled in the House of Assembly, the Commission shall cause its annual report and audited accounts to be published in the *Gazette*.

(5) After publication in the *Gazette*, the Commission shall make copies of its annual report and audited accounts available to any member of the public who requests a copy upon payment of a reasonable charge to be determined by the Commission.

(Act 4/2007, s. 2)

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Taxation

23. The Commission is exempt from the payment of all taxes, levies and licence fees on its income and operations and from the payment of all taxes, duties and rates on its property and documents.

Levy payable to the Commission

24. (1) Within 4 weeks of the approval by the Governor in Council of its estimates and work programme in respect of a financial year, the Commission shall—

(a) set an industry levy for that financial year in accordance with subsection (2); and

(b) assess, in the manner prescribed, the proportion of the industry levy to be paid by each public utility and, in accordance with section 48 of the Telecommunications Act, telecommunications suppliers and persons holding frequency authorisations.

(2) The industry levy for a financial year shall equal the net estimated expenditure of the Commission for that financial year, as set out in the estimates approved by the Governor in Council, adjusted by—

(a) the addition of the deficit, if any, shown in the audited accounts for the last available financial year; or

(b) the subtraction of the surplus, if any, shown in the audited accounts for the last available financial year.

(Act 4/2007, s. 3)

(3) The Governor in Council shall, by regulation, provide for—

(a) the method by which the industry levy is to be divided between public utilities, telecommunications suppliers and holders of frequency authorisations in Anguilla; and

(b) the sum to be paid by a person who becomes a public utility, a telecommunications supplier or a holder of a frequency authorisation during the course of a financial year.

(4) The amount assessed by the Commission on a public utility, a telecommunications supplier or a holder of a frequency authorisation shall be paid to the Commission within 4 weeks after receiving notification of the assessment.

(5) A public utility, a telecommunications supplier or a holder of a frequency authorisation that does not pay an assessment made in accordance with this section is liable—

(a) to pay interest to the Commission at the rate of 5%; and

(b) to pay a penalty to the Commission of $500 for each day on which any part of the assessment remains unpaid.

(6) The assessment, any interest payable under paragraph (5)(a) and any penalty payable under paragraph (5)(b) may be recovered by the Commission as a civil debt.

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Appropriation of funds by House of Assembly

25. The House of Assembly may appropriate funds for the purposes of the Commission.

PART 4

TARIFFS

Interpretation for and scope of this Part

26. (1) In this Part, "product" means electricity and piped water.

(2) This Part applies to public utilities only.

Public utilities to charge in accordance with tariff

27. (1) Subject to section 28—

(a) the price charged by a public utility for the supply of a product and any charge associated with the supply of a product shall be in accordance with a tariff fixed under this Act or calculated in accordance with a formula specified under this Act; and

(b) a public utility is prohibited from making any charge to a customer that is not in accordance with its tariff.

(2) The tariff referred to in subsection (1) shall—

(a) show the methods by which and the principles on which charges are to be made; and

(b) include every price charged by a public utility, including, where appropriate, standing charges, charges for supply and charges for the rental of equipment.

(3) A public utility shall publish its tariff in such manner as may be specified by the Commission and shall make its tariff available to members of the public on request.

(4) A public utility that contravenes subsection (1) or subsection (3) commits an offence and is liable on summary conviction—

(a) in respect of a breach of subsection (1) to a fine of $1,000; or

(b) in respect of a breach of subsection (3) to a fine of $500.

Special agreements

28. (1) Notwithstanding section 27, in the circumstances specified in subsection (2), a public utility may, with the prior written consent of the Commission, enter into a special agreement with a customer for the supply of a product.

(2) The Commission may consent to a public utility entering into a special agreement under subsection (1) where it is satisfied that, by virtue of the volume of the customer's demand for a product, or otherwise, it is reasonable for a special agreement to be entered into with that customer.

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(3) A special agreement under subsection (1) may provide for the supply of the product to be subject to such terms and conditions and for such charges as are set out in the agreement.

Initial tariff to be fixed by licence

29. (1) Every public suppliers licence issued by the Commission shall either—

(a) specify the initial tariff of the holder of the licence; or

(b) specify a formula by which the initial tariff of the licence holder may be calculated.

(2) A public suppliers licence shall not provide that any charge or charges comprised in the tariff may be increased from year to year or other period without application to the Commission.

Application to vary tariff

30. (1) A public utility may apply to the Commission in writing to amend its tariff—

(a) in such circumstances as may be provided for in its licence; or

(b) if it considers that exceptional circumstances justify the amendment of its tariff.

(2) The Commission may approve a change in the tariff of a public utility if it is satisfied—

(a) that the change is in accordance with the conditions of the licence or regulations, as appropriate; or

(b) that there are exceptional circumstances justifying the change.

Review of tariffs

31. (1) The purpose of this section is to ensure that the tariff of a public utility is reviewed by the Commission every 5 years.

(2) In this section "tariff period" means the period of 5 years from the date of the commencement of a licence issued by the Commission and each successive 5-year period.

(3) Not less than 4 months before the end of each tariff period, a public utility shall submit to the Commission its proposed tariff for the next tariff period together with—

(a) such information as may be prescribed; and

(b) if the proposed tariff is different from the tariff then in force, its justification for the changes.

(4) The Commission may, by written notice, require a public utility to provide it with such documents and information as it may reasonably require to assess and evaluate the public utility's proposed tariff.

(5) The Commission shall, within 2 months after receiving the proposed tariff, either—

(a) approve the proposed tariff; or

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(b) notify the public utility in writing that it intends to reject the proposed tariff and that it intends to fix a different tariff or to set a formula by which a tariff may be calculated.

(6) Where it notifies a public utility of its intention to reject a proposed tariff, the Commission shall provide the public utility with the reasons for its intended decision.

(7) A public utility may, within one month after the receipt of a notification under paragraph (5)(b), provide the Commission with further representations concerning its proposed tariff or the tariff or formula that the Commission intends to fix or set.

(8) The Commission shall, not less than 14 days before the end of the tariff period, fix a tariff for the following tariff period or set a formula by which such a tariff can be calculated.

(9) In considering whether to accept the tariff proposed by a public utility, or in fixing a tariff or setting a formula, the Commission may take into account such matters as it considers appropriate and shall take into account—

(a) the provisions of section 27;

(b) the earnings and profits or losses of the public utility; and

(c) the standard and the cost of the products or service provided or supplied by the public utility.

General provisions

32. (1) Subject to subsection (2), the tariff of a public utility shall—

(a) not show an undue preference to any customer or class of customers;

(b) be just and reasonable; and

(c) as far as is practicable, have the effect of promoting efficiency in the supply of products and the provision of services and the consumption of the products or services.

(2) The tariff of a public utility may differentiate between customers on the basis of their total requirement for the product supplied or the service provided or upon such other grounds as the Commission may approve in writing.

PART 5

RESOLUTION OF DISPUTES

Commission to establish dispute resolution process

33. (1) The Commission shall establish a resolution process for the just determination of disputes arising between public utilities and between a public utility and its customers and for determining such disputes as may be specified in the Telecommunications Act or in respect of any other matter that the Commission considers appropriate for dispute resolution.

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(2) The Commission shall not be a party to any dispute resolution process.

(3) The resolution of a dispute in accordance with this section shall be funded by the parties to the dispute in such manner as the Commission considers just.

Determination of disputes

34. (1) The Commission shall expeditiously hear and inquire into and investigate any matter which is before it.

(2) The Commission shall determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the respective parties and the Commission may require those matters to be presented within the periods so determined.

(3) The Commission may require evidence or arguments to be presented in writing and may decide the matters upon which it will hear oral evidence or arguments.

(4) Every party to a matter shall be entitled to appear at the hearing and may be represented by an attorney or any other person who in the opinion of the Commission is competent to assist the party in the presentation of the matter.

Powers of Commission

35. (1) When determining a dispute, the Commission has the power to—

(a) issue summons to compel the attendance of witnesses;

(b) examine witnesses on oath, affirmation or otherwise; and

(c) compel the production of documents.

(2) A summons issued by the Commission shall be under the hand of the Chairman.

Orders that may be made by Commission

36. The Commission may, in relation to any matter brought before it under this Part—

(a) make provisional or interim orders or awards relating to the matter or part thereof, or give directions in pursuance of the hearing;

(b) dismiss or refrain from hearing or determining a matter, in whole or in part, if it appears that the matter, or part of the matter, is trivial or vexatious or that further proceedings are not necessary or desirable in the public interest;

(c) in appropriate circumstances, order any party to pay the reasonable costs and expenses of another party, including the expenses of witnesses and reasonable attorneys' fees, in bringing such matter before the Commission, except that no such award shall be made when such other party is an operator of a telecommunications network or a provider of a telecommunications service absent a determination by the Commission that the party's conduct in the matter, or in the proceeding before the Commission, has been so egregious, vexatious or frivolous as to warrant an award of costs and expenses to such other party; and

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(d) generally give all such directions and do all such things as are necessary or expedient for the hearing and determination of the matter.

PART 6

DUTIES OF AND RESTRICTIONS ON PUBLIC UTILITIES, OPERATORS AND SERVICE PROVIDERS

Duties of public utilities

37. A public utility shall—

(a) develop and maintain an efficient and economical system for the supply of, and comply (so far as it is reasonable to do so) with any reasonable request by a customer for the supply of—

(i) in the case of a public supplier, electricity, and

(ii) in the case of the Water Corporation, piped water; and

(b) maintain its property, plant and equipment in such condition as to enable it to provide a safe, adequate, proper and economic service.

Duties of public utilities, operators and service providers with regard to accounts and audit

38. (1) A public utility, an operator and a service provider shall maintain accounting records that—

(a) are sufficient to record and explain its transactions, including its costs;

(b) will, at any time, enable its financial position to be determined with reasonable accuracy; and

(c) are sufficient to enable financial statements to be prepared and audited in accordance with this section.

(2) A public utility, an operator and a service provider shall have its accounts audited by an auditor annually.

(3) A public utility, an operator and a service provider shall submit to the Commission—

(a) audited accounts within 6 months of the end of its financial year unless prior written approval for an extension has been granted by the Commission; and

(b) management accounts when required by the Commission.

(4) Where a public utility, an operator or a service provider changes its auditor, it shall, when required by the Commission, authorise the former auditor to disclose the circumstances that gave rise to the change, and when so authorised, the auditor shall disclose such circumstances.

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(5) The Regulations may provide for the form and content of—

(a) the accounting records to be maintained by a public utility, an operator and a service provider; and

(b) the accounts, including management accounts, to be prepared by a public utility, an operator and a service provider.

Duty of public utilities to advise Commission of directors and officers

39. (1) A public supplier shall, within 14 days of being granted a licence, submit to the Commission a written statement setting out its directors and other officers and specifying, in respect of each—

(a) his full name;

(b) his residential address; and

(c) his position within the public supplier.

(2) The Water Corporation shall, within 14 days of being granted a licence, submit to the Commission a written statement setting out its directors and other officers and specifying, in respect of each—

(a) his full name;

(b) his residential address; and

(c) his position within the Water Corporation.

(3) Within 14 days of any change in the details provided under subsection (1) or (2), or in any details notified under this subsection, a public utility shall submit a written statement setting out the details of the change and specifying, in respect of any new director or officer the information set out in subsections (1) and (2).

(4) A public utility that contravenes this section commits an offence and is liable on summary conviction to a fine of $10,000.

Restrictions on public utilities

40. (1) A public utility shall not without the prior written consent of the Commission—

(a) cease its business or operations, or any part of them;

(b) assign its licence or transfer its business or undertaking, or any part, whether by sale, mortgage, lease, exchange or otherwise; or

(c) acquire by purchase or otherwise the licence or the business or undertaking, or any part, of another public utility.

(2) A public utility that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $10,000.

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Transfer of significant interest of a public supplier

41. (1) A person owning or holding a significant interest in a public supplier shall not sell, transfer, charge or otherwise dispose of his interest in the public supplier, or any part of his interest, unless the prior written approval of the Commission has been obtained.

(2) A public supplier shall not, unless the prior written approval of the Commission has been obtained—

(a) cause, permit or acquiesce in a sale, transfer, charge or other disposition referred to in subsection (1);

(b) issue or allot any shares or cause, permit or acquiesce in any other reorganisation of its share capital that results in—

(i) a person acquiring a significant interest in the public supplier, or

(ii) a person who already owns or holds a significant interest in the public supplier, increasing or decreasing the size of his interest.

(3) Notwithstanding anything in this section, where a sale, transfer, charge or other disposition referred to in subsection (1) is a result of an internal reorganization of a body corporate that does not constitute ultimate transfer of control of a public supplier—

(a) the prior written approval of the Commission shall not be required; and

(b) such public supplier shall, as soon as reasonably practicable, notify the Commission of the nature and extent of such sale, transfer, charge or other disposition.

(4) The Commission may, in respect of a public supplier whose shares are publicly traded on a stock exchange recognized by the Commission, waive the obligation to obtain approval under subsection (2), and any such waiver shall be subject to a condition that the public supplier shall, as soon as reasonably practicable, notify the Commission of any sale, transfer, charge or other disposition referred to in subsection (1).

(5) A person that contravenes subsection (1) or a public supplier that contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $10,000.

PART 7

ADMINISTRATIVE PROVISIONS

Disclosure of interest

42. (1) A Commissioner who has any direct or indirect personal, professional, business or pecuniary interest in any matter which falls to be considered by the Board shall, as soon as reasonably practicable, complete a declaration of interest in the prescribed form and submit it to the Governor in Council and to the Chairman of the Board or, if he is the Chairman, to the Deputy Chairman.

(Act 1/2014, s. 6(1) and (2))

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(2) A member who has declared an interest under subsection (1) shall withdraw from any meeting whilst the matter in respect of which he has declared an interest is being considered by the Commission and shall not express any view or take part in any vote concerning the matter.

(3) The Chairman, or Deputy Chairman, of the Board shall draw any declaration of interest that he may receive under subsection (1) to the attention of the meeting of the Board prior to its consideration of the matter in respect of which the declaration was made.

(Act 1/2014, s. 6(2))

(4) A Commissioner who fails to disclose an interest as required under subsection (1) or who makes a false or misleading statement in such a declaration commits an offence and is liable—

(a) on summary conviction to a fine of $25,000 and a term of imprisonment of 6 months or to both; or

(b) on conviction on indictment to a fine of $50,000 and a term of imprisonment of one year or to both,

unless he proves that he was not aware of the interest or, as the case may be, that he did not know, or with the exercise of reasonable diligence could not have discovered, that the statement was false or misleading.

(Act 1/2014, s. 6(1))

(5) For the purposes of this section, a member who or any nominee of whom is a shareholder in a body corporate or a partner in a firm, or who is an employee thereof, shall be treated as having an interest in any matter under consideration that relates to such body corporate or firm.

Governor in Council to consider declaration

43. Where the Governor in Council receives a declaration of interest under section 4, unless he is satisfied that the declared interest is not likely to prejudicially affect the exercise and performance by the member of his functions as a Commissioner, he shall remove him as a Commissioner under section 6(2).

(Act 1/2014, s. 6(1))

Restrictions on disclosure of information

44. (1) Subject to subsection (3), a person to whom this section applies shall not knowingly disclose to any person—

(a) information concerning the affairs of an individual or the business of any person that he has acquired in the course of his duties or in the exercise of his functions under this Act and any designated enactment; and

(b) without limiting paragraph (a), any information, when designated by a person submitting information to the Commission, that is in the nature of a trade secret or other confidential financial, scientific or technical information the disclosure of which could reasonably be expected to result in material financial loss or gain to any person.

(2) This section applies to a person who is or has been a member, employee, agent, advisor or agent of the Commission or a member of a committee of the Commission.

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(3) Subsection (1) does not apply to a disclosure of information—

(a) made to the Governor in Council;

(b) where the Commission determines, after considering representations from the person who supplied such information to the Commission and other persons with a demonstrable commercial or proprietary interest in such information, that the disclosure would facilitate the carrying out of its functions, powers or duties under this Act or any other enactment, or would otherwise be in the public interest;

(c) made with the written consent of the person to whom the information relates;

(d) that is otherwise in the public domain;

(e) where the information disclosed is in a summary or in statistics expressed in a manner that does not enable the identity of the person to whom the information relates to be determined;

(f) in connection with the investigation of any civil or criminal offence or for the purposes of any civil or criminal proceedings;

(g) for the purposes of any civil proceedings brought under or by virtue of this Act;

(h) made by one person to whom this section applies to another person to whom this section applies; or

(i) required or permitted by any Court of competent jurisdiction in Anguilla.

Immunity

45. Neither the Board nor any employee of the Commission, nor any chairman or member of the Appeal Tribunal, shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers, functions or duties under this Act or under a designated enactment unless it is shown that the act or omission was in bad faith.

(Act 1/2014, s. 5)

Modification of licences

46. (1) The Commission may modify the terms and conditions of the licence of a public supplier—

(a) with the written agreement of the public supplier; or

(b) where the modification is authorised by an order of the Court made under this section.

(2) The Commission may apply to the Court for an order authorising it to modify the terms and conditions of the licence of a public supplier without the consent of that public supplier if—

(a) the Commission considers that it is in the public interest for the terms and conditions of the licence to be modified; and

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(b) the public supplier concerned refuses to consent to the modification sought by the Commission.

(3) An application under subsection (2)—

(a) shall specify—

(i) the manner in which the licence operates, or may be expected to operate, contrary to the public interest, and

(ii) the modification of the terms and conditions of the licence that, in its opinion, will remedy or prevent the operation or expected operation of the licence contrary to the public interest; and

(b) shall be served on the public supplier in respect of which the order is sought at least 14 days before the date of the hearing of the application.

(4) If, on an application made under subsection (2), the Court is satisfied that—

(a) it is in the public interest that the terms and conditions of the licence be modified; and

(b) the public supplier has refused to consent to the modification;

it may authorise the modification of the licence and make such other order that it considers just.

(5) An order under subsection (4) shall authorise a modification of the licence of a public supplier only to the extent necessary to remedy or prevent the operation or expected operation of the licence contrary to the public interest.

PART 8

APPEAL TRIBUNAL

Establishment of Appeal Tribunal

47. (1) There shall be a tribunal, to be called the Appeal Tribunal (in this Part referred to as the "Tribunal").

(2) The Tribunal shall consist of—

(a) members appointed by the Governor to form a panel of chairmen; and

(b) members appointed by the Governor to form a panel of ordinary members.

(3) The Tribunal shall have a Registrar appointed by the Governor.

(4) The expenses of the Tribunal shall be paid by the service provider or operator requesting the appeal.

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(5) Schedule 3 (which makes further provisions about the Tribunal) has effect.

Constitution of Tribunal for particular proceedings and its decisions

48. (1) For the purposes of any proceedings before it the Tribunal shall consist of a chairman and 2 other members selected by the Governor.

(2) The chairman must be a member of the panel of chairmen.

(3) The other members may be chosen from either the panel of chairmen or the panel of ordinary members.

(4) If the members of the Tribunal as constituted in accordance with this section are unable to agree on any decision, the decision is to be taken by majority vote.

Tribunal regulations

49. The Governor in Council may prescribe the rules of procedure for the Tribunal (in this Part referred to as "Tribunal regulations") with respect to proceedings before the Tribunal and may, in particular, prescribe—

(a) the qualifications for appointment as Registrar;

(b) the functions of the chairman or the Registrar in relation to any proceedings before the Tribunal; and

(c) incidental, supplemental, consequential or transitional provisions.

Right of appeal

50. (1) An appeal shall lie to the Appeal Tribunal against any decision made by the Commission under sections 13(1)(e)(ii), 14(1)(b) and 15(1)(d) of the Telecommunications Act.

(2) Subject to any provisions to the contrary in this Act, any person wishing to appeal under subsection (1) shall within 28 days of the date of receipt of the notice, decision or order which is to be appealed against send a notice of appeal to the Executive Chairman who shall forthwith on receipt thereof send a copy of such notice to the Governor.

(3) A notice of appeal given under subsection (2) shall set out—

(a) concisely the decision appealed against;

(b) the name of the appellant; and

(c) concisely the grounds on which the appellant wishes to appeal against the decision.

(4) Where notice of appeal is given under subsection (2), the Executive Chairman shall forward to the Registrar—

(a) a copy of all papers and documents submitted by the appellant or any person acting on his behalf to the Commission; and

(b) a copy of the decision appealed against.

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(5) On receipt of a copy of the notice of appeal given under subsection (2), the Tribunal shall reject the notice of appeal if it appears not to comply with subsection (3).

Decision and notification of appeal

51. (1) The Tribunal, after hearing the appeal, may, with reference to the public interest and to the objectives of the Telecommunications Act—

(a) allow the appeal in whole or in part and quash the decision of the Commission;

(b) if it allows the appeal in part, do so by varying the decision of the Commission in any manner and subject to any conditions or limitations it thinks fit, but not so as to impose any condition or requirement that the Commission had no power under the Telecommunications Act to impose when making the decision or taking the action appealed against;

(c) correct any procedural defect in the decision or error of law in the decision of the Commission appealed against; or

(d) dismiss the appeal and confirm the decision of the Commission.

(2) As soon as reasonably practicable after the decision of the Tribunal, the Registrar shall send to the appellant and the Commission written notification of the determination of the appeal together with full and clear reasons for the determination.

Appeal to a Court

52. (1) Subject to the provisions of this Act, no appeal shall lie against a decision of the Commission in a matter to which section 50 relates otherwise than as provided for by section 50.

(2) Save as otherwise provided in this section, the decision of the Tribunal shall be final.

(3) An appeal shall lie to the Court from a decision of the Tribunal on a point of law but not on any matter of fact and not in any manner upon the merits of the policies applied by the Commission or the Tribunal in reaching the relevant decision.

(4) An appeal to which subsection (3) relates shall be filed in the Court within 28 days of the notification of the decision of the Tribunal.

PART 9

GENERAL

Regulations

53. The Governor in Council may make regulations generally for giving effect to the provisions of this Act and specifically for prescribing any thing required or permitted to be prescribed by this Act.

Commission may issue a Utilities Code

54. (1) The Commission may issue a Utilities Code by publication of the Code in the *Gazette*.

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(2) The Code may provide for—

(a) the terms and conditions to be included in agreements entered into between a public utility and its tariff customers;

(b) the standards of performance to be achieved by a public utility; and

(c) such other matters as the Commission may determine.

(3) The Code may make different provision in relation to persons, including public utilities, cases or circumstances of different descriptions.

(4) The Commission may amend, add to or replace the Code by notice published in the *Gazette*.

(5) Before publishing a notice under subsection (4), the Commission shall—

(a) send a draft of the proposed amendment, addition to or replacement of the Code to every public utility affected by the notice specifying the period within which written representations are to be provided to the Commission; and

(b) consider such written representations as it may receive.

Provision for pensions

55. The Commission may make provision for the payment of pensions to its members and employees.

Offence provisions

56. (1) A person who with intent to deceive, or for any purpose of this Act makes any representation or submits any return that he knows to be false or does not believe to be true commits an offence and is liable on conviction to a fine of $25,000 or to imprisonment for a term of one year or to both.

(2) A person who, in any manner, impedes, prevents, or obstructs any investigation being carried out by the Commission under this Act or any designated enactment, including by—

(a) his refusal to produce any document, record, thing, or any information required by the Commission; or

(b) his destruction or alteration, or his causing to be destroyed or altered, any document, record or thing required to be produced under this Act or any designated enactment,

commits an offence and is liable on conviction to a fine of $20,000 or, with respect to a violation of paragraph (2)(b), to imprisonment for a term of 6 months or to both.

(3) Where an offence under this Act is committed by a body corporate, a director or officer of that body corporate who knowingly authorised, permitted or acquiesced in the commission of the offence also commits the offence and is liable on conviction to—

(a) a fine of the amount specified for the offence;

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(b) a term of imprisonment as specified for the offence, if any; or

(c) both a fine and imprisonment.

Citation

57. This Act may be cited as the Public Utilities Commission Act, Revised Statutes of Anguilla, Chapter P175.

_____

SCHEDULE 1

(Section 1)

DESIGNATED ENACTMENTS

Telecommunications Act

_____

SCHEDULE 2

(Section 2(3))

ADMINISTRATION AND PROCEDURES OF THE BOARD

Quorum and decision of Board

1. (1) A quorum of the Board is a majority of the Commissioners.

(2) A decision of the majority of the Board members is a decision of the Board.

(3) In the event of a tie vote, the Chairman has a second vote.

Absence of the of Chairman and Deputy Chairman

2. (1) If the Chairman is absent the Deputy Chairman shall act as Chairman.

(2) If by reason of the absence or incapacity of the Chairman and Deputy Chairman or there is a vacancy in either of those offices, the Commissioners may designate a member as an interim Chairman.

Frequency, place, day and time of Board meetings

3. (1) The Board shall meet as often as may be necessary to perform its duties and exercise its powers in an expeditious manner.

(2) A meeting of the Board shall be held on the days and at the times that the Chairman may determine.

Notice of Board meeting

4. (1) The Chairman shall cause written notice of the place, day, time and agenda of a Board meeting to be given to each member not less than 72 hours before the time the meeting is to be held.

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(2) Notice shall be given to a member by—

(a) handing a copy to the member or designate;

(b) leaving a copy with an adult at the office, place of business or place of residence of the member or designate;

(c) emailing or faxing a copy to the member or designate at the member's or designate's email address or fax number; or

(d) any other means approved by resolution of the Board.

(3) Despite subsection (1)—

(a) a Board member may, in writing, waive notice of a meeting; or

(b) if the Board resolves that a meeting of the Board is convened then a meeting of the Board is deemed to have been held.

Electronic meetings

5. The Board may hold a meeting using a method of communication that permits all the members participating to communicate with each other simultaneously, if all the members participating consent to holding the meeting in that way.

Decision of Chairman

6. The decision of the Chairman, Deputy Chairman or Interim Chairman presiding at a meeting is final on the following matters—

(a) the agenda for a meeting;

(b) the conduct of the meeting; and

(c) the procedure for handling motions.

Committees

7. (1) The Board may appoint committees to give advice to the Board.

(2) The Board may remunerate members of a committee for work done on terms and conditions that the Board considers to be reasonable.

(3) The Board shall appoint a Commissioner as Chairman of the committee.

(4) A committee may include persons other than members of the Board.

Secretary to the Board

8. (1) The Commission may appoint—

(a) one of its Commissioners, other than the Executive Director, to act as the Secretary; or

(b) a person who is not a Commissioner to perform the functions of the Secretary.

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(2) The Secretary shall be remunerated for the secretarial services performed and if the Secretary is a Commissioner then the Secretary shall be remunerated in addition to the usual remuneration for being a Commissioner.

(3) The Secretary shall provide administrative support to the Board, including—

(a) preparing the agenda for each meeting of the Board and giving notice of meetings that include the agenda, the day, time and place of the meeting and the minutes of the previous meeting to members or designates and to affected public officers and others whose attendance is necessary or advisable;

(b) taking accurate minutes of each meeting of the Board, including—

(i) attendance by members;

(ii) any waiver of notice by a member;

(iii) whether a meeting referred to in section 4(3)(b) was held and whether all members participating in the meeting consented to it;

(iv) each resolution moved, the members present and voting for and against it or abstaining from voting on it and whether the resolution was passed or defeated; and

(v) each disclosure made under section 39 of the Act and particulars of whether any member of the Board or committee withdrew from the meeting whilst a matter was being considered;

(c) providing copies of minutes to the Board;

(d) preparing the correspondence of the Board; and

(e) carrying out such other tasks in relation to the basic administration of the Board that are assigned to the Secretary by the Board.

(4) At a meeting of the Board, the Secretary shall table a copy of the minutes of the previous meeting for approval by the Board.

Corporate Seal

9. (1) The Commission shall have an official seal for the authentication of documents issued by the Commission.

(2) A document purported to be executed under the seal of the Commission, or signed on its behalf, shall be received in evidence and, unless the contrary is proved, shall be taken to be so executed or signed.

Utilities Code

10. The Utilities Code and any notice to amend, add to or replace the Code shall bear the Commission's seal, the application of which shall be authenticated by the signature of the Chairman of the Commission.

(Act 1/2014, s. 7)

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SCHEDULE 3

(Section 47)

CONSTITUTION AND PROCEDURES OF THE APPEAL TRIBUNAL

Appointment of chairmen and ordinary members

1. A person is not eligible for appointment as a chairman or ordinary member if—

a) he is a member of the Commission; or

b) unless he appears to the Governor to have appropriate experience and knowledge;

with due regard given to the qualifications set out, with respect to members of the Commission, in section 3(1) of the Act.

Appointment, etc. of chairmen

2. (1) The members appointed as chairmen shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.

(2) The chairmen may resign their offices by notice in writing to the Governor.

(3) The Governor may remove a person from office as chairman on the ground of incapacity or misbehaviour.

(4) If the chairman is absent or otherwise unable to act the Governor may appoint as acting chairman any person qualified for appointment as a chairman.

Appointment, etc. of ordinary members

3. Ordinary members shall hold and vacate office in accordance with their terms of appointment.

Meetings of Appeal Tribunal

4. (1) The Appeal Tribunal shall meet on such occasions as may be expedient for the hearing of an appeal and at such places, times and on such days as the Appeal Tribunal may determine.

(2) The chairman shall preside at all meetings of the Appeal Tribunal.

(3) For any proceeding, a quorum of the Appeal Tribunal shall consist of a majority of members, which shall include the chairman.

(4) The decisions of the Appeal Tribunal shall be by a majority of votes of members present and voting and, in the event of equality of votes, the chairman shall have a casting vote in addition to his own original vote.

Declaration of interest

5. (1) It shall be the duty of a member of the Appeal Tribunal who is in any way directly or indirectly interested in a matter coming before the Appeal Tribunal to declare the nature of his interest in the matter as soon as it is practicable for him to do so, and he shall take no part directly or indirectly in any deliberation, discussion, consideration or similar activity by the Appeal Tribunal on that matter.

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(2) Where the Appeal Tribunal lacks a quorum in relation to an appeal owing to the number of members who have declared an interest in that appeal, the Governor shall, for the purpose of that appeal, revoke the appointment of those members and appoint other persons in their stead.

Remuneration

6. For each sitting of the Appeal Tribunal the Chairman and the ordinary members shall be paid such remuneration as may be prescribed by the Governor in Council.

Validity of proceedings

7. The validity of any proceedings of the Appeal Tribunal shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

Miscellaneous

8. In this Schedule, "chairman" and "ordinary member" mean respectively a member of the panel of chairmen, or a member of the panel of ordinary members, appointed under section 1.

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