

## SAMOA

### ELECTRICITY RULES 2019

#### Arrangement of Provisions

- |  |   |
|--|---|
| <b>PART 1<br/>PRELIMINARY</b>              | <b>PART 3<br/>TARIFFS AND TARIFF<br/>APPLICATION<br/>PROCEDURES</b> |
| 1. Citation and commencement               | 13. Tariff components   |
| 2. Interpretation                          | 14. Energy charge   |
| <b>PART 2<br/>REGULATORY<br/>PROCEDURE</b> | 15. Debt charge   |
| <i>Division One - Proceedings</i>          | 16. Usage charge  |
| 3. Proceedings before the Regulator        | 17. Multi-year tariff framework                                     |
| 4. Electronic access to proceedings        | 18. Annual review under multi-year tariff framework                 |
| 5. Initiation of proceedings               | 19. Non-tariff income   |
| 6. Service of notice of proceedings        | 20. Subsidies   |
| 7. Regulators decision of proceedings      | 21. Power system expansion planning                                 |
| 8. Records of the Regulator                | <b>PART 4<br/>LICENSING<br/>APPLICATION<br/>PROCEDURE</b>           |
| <i>Division Two - Petitions</i>            | 22. Terms and Conditions of Licences                                |
| 9. Petitions                               | 23. Applications  |
| 10. Notices                                | 24. Physical address  |
| 11. Comments                               | 25. Application recorded  |
| 12. Regulator decision of Petitions        | 26. Preliminary evaluation  |
|  | 27. Notification of application                                     |

28. Technical and Financial evaluation
29. Additional information
30. Application decision
31. Grounds for refusal of application
32. Licence commencement date
33. Amendment of licence terms and conditions
34. Extension of licence
35. Transfer of licence
36. Information requirements
37. Criteria for regulatory approval

**PART 5  
CONSUMER  
COMPLAINTS**

38. Filing complaints
39. Referral to Regulator
40. Regulator to settle
41. Terms of service information
42. Availability of service
43. Billing information
44. Itemisation of charges

**PART 6  
PUBLIC CONSULTATION**

45. Public notice for tariff and other proceedings
46. Public consultation proceedings

---

PURSUANT to section 50 of the Electricity Act 2010 (“the Act”), the Regulator DETERMINES the following rules and procedures for the processing of tariffs and licence applications as well as dispute resolution proceedings:

DATED this 14<sup>th</sup> day of Feb 2019.



.....  
(Lefaoalii Unutoa Auelua-Fonoti)  
**REGULATOR**

## RULES

### PART 1 PRELIMINARY

**1. Citation and commencement** - These Rules may be cited as the Electricity Rules 2019 and commence on the date it is signed by the Regulator.

**2. Interpretation** - In these Rules, unless the context otherwise requires:

“Annual Revenue Requirement” or “ARR” means the revenue that Electricity Network Services licensee is allowed to collect through tariffs each year;

“complaints” means an expression of dissatisfaction or allegation of wrongdoing against a licensee in relation to a product, service, policy or procedure;

“Power Purchase Agreement” or “PPA” means a contract to generate and sell electricity between the Independent Power Producer (IPP) as the seller and the Electricity Network Services licensee as the buyer;

“proceedings” means proceedings of any nature that the Office of the Regulator may hold in the discharge of its function under the Act;

“price control period” means a period of up to three (3) years under which a multi-year tariff is set;

“regulated services” means the services offered by a licensee under a licence;

“Regulations” means the Electricity (Fees) Regulation 2017;

“tariff” means the rate permitted to be charged by a licensee for sale of their product or service.

“website” means the official website of the Office of the Electricity Regulator under section 8(10) of the Act.

### PART 2 REGULATORY PROCEDURE

#### *Division 1 - Proceedings*

**3. Proceedings before the Regulator-**(1) These Rules of Procedure shall be followed for all matters that come before the Regulator.

(2) For the avoidance of doubt, the regulatory proceedings set out in this part are applicable to each of these rules.

(3) The Regulator may, in carrying out his or her obligations under any other Rules, employ the procedures identified in this part.

**4. Electronic access to proceedings -** The Regulator may develop procedures as he or she deems appropriate for the electronic filing of petitions and information with the Regulator and for access to public information through the website maintained by the Regulator for this purpose.

**5. Initiation of proceedings-**(1) The Regulator may initiate any proceedings by his or her own motion or by petition filed by any person.

(2) When the Regulator initiates a proceeding it shall be by a notice issued by the Regulator.

**6. Service of notice of proceedings-**(1) The Regulator may issue a notice to interested parties that the petition is under consideration by the Regulator and offer an opportunity for interested parties to issue comments as part of the proceeding.

(2) Where the Regulator or these Rules require a petition to be made public, it must be published on the website and any other place, as the Regulator may determine.

(3) A respondent may file a response to a petition within 21 days from the date the notice is served on the respondent.

(4) Any person to whom a notice of petition or inquiry is issued and who intends to oppose or support the petition shall file comments within 14 days and in such manner as may be determined by the Regulator.

(5) Where the respondent states additional facts that the Regulator determines to be necessary to resolve the matter, the Regulator shall allow the petitioner to file a response.

**7. Regulators decision of proceedings-**(1) The Regulator must issue a decision on every proceeding made before him or her.

(2) The Regulator may release, in part or whole, the decision made under sub-rule (1).

(3) A decision of a proceeding by the Regulator must be:

(a) in writing;

(b) signed; and

(c) published on the website after being issued.

(4) All decisions of the Regulator must be communicated to the parties in the proceedings.

(5) Despite sub-rule (3)(c), the Regulator has the discretion:

(a) not to publish a decision; or

(b) to publish, in part or whole, the decision on the website.

**8. Records of the Regulator-**(1) Records of every proceeding, except those parts determined by the Regulator to be confidential materials, shall be made available to any person.

(2) Any interested person shall be entitled to obtain electronic or certified copies; of pleadings, an Order, a decision, directions or reasons in support of the decision given by the Regulator, subject to a payment of a fee and complying with other terms and conditions which the Regulator may determine.

#### *Division 2 - Petitions*

**9. Petitions** - Any person may petition the Regulator to:

(a) adopt a new rule; or

(b) amend an existing rule.

**10. Notices** - Upon receipt of a petition under rule 9, the Regulator must post a notice on the Regulator's official website which includes:

(a) a summary of the petition;

(b) the name of the individual, organization or entity that submitted the petition; and

(c) a notification that a copy of the petition shall be available on the Regulator's official website.

**11. Comments** - Any comment on the petition shall be due within 21 days from the date of publication of the notice under rule 10.

**12. Regulator decision of Petitions**-(1) Upon receipt of a petition, the Regulator must no later than 30 days either:

- (a) deny a petition; or
- (b) accept a petition.

(2) A decision under sub-rule (1)(a) must be in writing by the Regulator.

### PART 3

#### TARIFFS AND TARIFF APPLICATION PROCEDURES

**13. Tariff components** - The tariff to be charged by the electricity network services licensee for the sale of electricity shall comprise of the following components:

- (a) energy charge;
- (b) debt charge; and
- (c) usage charge.

**14. Energy charge**-(1) The energy charge reflects the costs incurred by the electricity network services licensee in purchasing fuel for any generation plant it owns as a generation licensee, and purchasing energy from IPPs under a PPA.

(2) The energy charge is:

- (a) subject to monthly review by the Regulator to reflect changes in fuel prices, lube oil prices, and IPP production;
- (b) determined based on a pass through of actual costs incurred by the electricity network services licensee, which may be amended to reflect targets for efficiency in plant operation and in the management of losses; and
- (c) specified on an equal sene/kWh basis for all customers unless an explicit subsidy is provided.

**15. Debt charge-**(1)The debt charge reflects the costs incurred by the electricity network services licensee in the repayment of interest and principal of loans incurred on its behalf by the Government of Samoa under the Power Sector Expansion Project.

(2) The debt charge is to be:

- (a) recovered equally from all customers on a sene/kWh basis;
- (b) calculated based on information provided to the Regulator by the electricity network services licensee and verified by the Ministry of Finance; and
- (c) updated on an annual basis based on forecast costs. This amount may be adjusted for differences between forecast and actual costs in the previous financial year.

**16. Usage charge-**(1)The usage charge reflects costs incurred by the electricity network services licensee in expanding and operating its regulated services.

(2) The usage charge allows for the recovery of the following efficient costs:

- (a) operations and maintenance related to the electricity network services licensee's network assets and generation assets subject to a generation licence;
- (b) general and administrative costs;
- (c) capital expenditure;
- (d) license fees; and
- (e) other costs as deemed applicable.

(3) The Regulator shall determine an ARR for the usage charge incorporating the costs included in sub-rule (2).

(4) Operations and maintenance costs and administrative costs of the electricity network services licensee's business shall be based on the efficient costs of operating and maintaining its network and undertaking its commercial and administrative activities, and take into account the actual costs of operations.

(5) Capital expenditure should take into account:

- (a) expansion needs determined under the Power System Expansion Plan; and

(b) rehabilitation needs and other requirements.

(6) No allowance for capital expenditure shall be included in the usage charge where the expenditure relates to assets funded through concessional finance or grants.

(7) Allowance for license fees should reflect amounts determined under the Regulations.

**17. Multi-year tariff framework-**(1) The Regulator shall determine an ARR and tariff for the electricity network services licensee under a multi-year tariff framework.

(2) The length of the price control period shall be no longer than three (3) years and incorporate:

(a) a tariff path for the usage charge set for the entire period with annual adjustments applicable under the conditions set out in rule 16;

(b) annual revision to the debt charge;

(c) monthly revision to the energy charge.

(3) In the year preceding the multi-year tariff period, the electricity network services licensee shall provide all information requested by the Regulator, including but not limited to:

(a) a Power System Expansion Plan;

(b) cost estimates covering at a minimum the duration of the price control period plus historic costs and estimated costs for the two (2) years prior to the price control period;

(c) a demand forecast covering energy, demand and customer numbers, and broken down by key customer categories for at least the same time period as the cost estimates;

(d) allocation of costs to tariff categories, setting out the method of allocation adopted; and

(e) proposed tariffs and tariff structures.

(4) Proposals for changes to the tariff structure should be made in the year preceding the start of the price control period.

(5) The Regulator is under no obligation to consider requests for tariff changes provided during the course of the price control period.



**18. Annual review under multi-year tariff framework-**

- (1) In the period between annual reviews, the Regulator must;
  - (a) review the electricity network services licensee's performance against the key benchmarks underpinning the multi-year tariff path; and
  - (b) make adjustments as appropriate with particular reference to section 19(3) of the Act.
- (2) The electricity network services licensee shall provide all information in the format requested by the Regulator to enable it to perform the annual review.

**19. Non-tariff income-**(1) The following, without limitation, shall constitute non-tariff income of the licensee:

- (a) interest on overdue accounts;
- (b) interest on investments;
- (c) meter tampering penalty fees;
- (d) pole sharing arrangements;
- (e) reconnection fees;
- (f) deferred income;
- (g) government contribution to Community Service Obligation.

(2) The amount received by the licensee on account of non-tariff income shall be deducted from the ARR in calculating the net revenue requirement of the licensee to the extent to which the costs of providing the services are already remunerated in the tariff or these relate to gains made by the licensee without any commensurate cost.

**20. Subsidies-**(1) The Regulator shall determine the ARR and tariff without considering subsidies.

(2) In the event that the Government of Samoa declares a subsidy for a particular category or categories of consumers, the Regulator shall incorporate the subsidy in the tariff following consultation with the electricity network services licensee.

**21. Power system expansion planning-**(1) The electricity network services licensee is required to submit its Power System Expansion Plan in the year prior to the start of the multi-year tariff period.

(2) The power system expansion plan shall be developed based on the principles of least cost resource planning and incorporate:

- (a) a forecast period of at least five (5) years, incorporating the price control period;
- (b) a demand forecast with scenarios;
- (c) the fixed and variable costs of the existing generation portfolio held by the electricity network services licensee and IPPs;
- (d) committed capital projects and potential candidate ones for both the electricity network services licensee and IPPs;
- (e) a loss reduction plan;
- (f) corresponding investment requirements for the transmission and distribution sectors.

(3) The power system expansion plan should develop cost effective measures that support least cost new supply, and which improve the efficiency of the power system. The plan should estimate the cost of feasible scenarios for Samoa to expand the share of renewable energy to meet prevailing government policies.

#### **PART 4 LICENSING APPLICATION PROCEDURE**

**22. Terms and conditions of licenses** - Subject to the Act, the Regulator shall determine the contents of a license pursuant to these Rules.

**23. Applications**-(1) All applicants must apply to the Regulator for an electricity network services licence.

(2) An applicant must

(a) satisfy an evaluation criteria published by the Regulator on the website.

(b) provide supporting documentation for an application.

(3) A fee prescribed by the Regulations is to be paid by the applicant to the Regulator.

(4) All applicants must complete and deliver a hard copy of the application form to the Regulator.

**24. Physical address-**(1) An applicant must have a physical address in Samoa and must be provided to the Regulator.

(2) The Regulator must be informed of any change to a licensee's physical address as soon as change is made.

**25. Application recorded** - Upon receipt of a licence application, the Regulator shall acknowledge the date of its receipt and it shall be duly recorded in the office records.

**26. Preliminary evaluation** - The Regulator shall conduct a preliminary evaluation of the licence application to determine whether the:

- (a) application form and appropriate enclosures have been properly completed and with the required number of copies; and
- (b) application satisfies the minimum requirements for the grant of a licence.

**27. Notification of application** - After concluding the preliminary evaluation the Regulator shall:

- (a) where the application is found to be complete, notify the applicant in writing that the application is ready for technical and financial evaluation; or
- (b) where the application is found to be incomplete, return the application form and ask the applicant to correct the defects therein or ask the applicant to re-submit the application.

**28. Technical and Financial evaluation** - At the conclusion of the preliminary evaluation, the Regulator shall conduct technical and financial evaluations of the applicant in order to determine the technical and financial capacity of the applicant to provide the Regulated Service.

**29. Additional information** - At any time during the application evaluation process the Regulator may require an applicant to submit additional information necessary to evaluate the application.

**30. Application decision-**(1) After reviewing the licence application the Regulator shall either grant or refuse the licence application.

(2) In the event that the Regulator determines to grant a licence, he or she shall proceed to issue the same upon the payment of the prescribed licence fee.

**31. Grounds for refusal of application** - In the event that the Regulator determines not to grant a licence, he or she shall immediately notify the applicant in writing stating reasons for such refusal, reasons may include but not limited to:

- (a) the application fails to meet the minimum technical and financial requirements;
- (b) any previous bad records of the applicant as an electricity network services licensee;
- (c) any previous criminal record of the applicant; and
- (d) false or misleading information in the licence application.

**32. Licence commencement date-**(1) The licence shall commence from the date the licence has been issued by the Regulator unless otherwise specified in the licence.

(2) During the licence term the licensee shall:

- (a) display either the original or a copy duly certified by the Regulator of its licence in a visible place in the licensed facility for public inspection at all reasonable times; and,
- (b) comply with all the terms and conditions of the licence.

**33. Amendment of license terms and conditions-**(1) Subject to the Act, the Regulator may amend a licence terms and conditions of a licensee during the licence term.

(2) Subject to sub-rule (1), the Regulator must issue a prior written notice to a licensee.

(3) During the licence term the licensee may apply to the Regulator to modify the licence.

(4) Any modification under rub-rule (3) is enforceable upon approval by the Regulator.

**34. Extension of licence-**(1) Subject to the Act, the licensee may apply for an extension of the licence term by giving notice to the Regulator six (6) months prior to the expiration date of a licence.

(2) When determining whether to grant or deny an application under sub-rule (1), the Regulator shall take into consideration:

(a) the licensee's compliance with the terms and conditions; and

(b) the licensee's performance during the licence term.

(3) Upon extension of the licence term, the Regulator may, pursuant to the Act, amend, vary or modify the licence terms and conditions.

**35. Transfer of licence-**(1) The licensee must not transfer the licence to any person without the prior written approval of the Regulator.

(2) A licensee seeking to transfer its licence must apply to the Regulator for the approval to do so and the Regulator must grant or refuse the consent in writing; and the approval must not be unreasonably withheld.

(3) A transfer of licence application must be made by filling in the appropriate form as the Regulator shall establish stating the reasons for the transfer and shall be accompanied by the following:

(a) a certified copy of the transferee's identity document.

If the transferee is an individual, proof of citizenship and in the case of a non-Samoan, a permanent residence permits and proof of residence in Samoa;

(b) certified copies of the transferee's registration documents, if the transferee is a corporate entity, trust or body other than an individual; and

(c) evidence of payment of all fees, levies and payments required by law by the transferor;

(d) shareholding structure of the transferee; and

(e) any other relevant information the Regulator may require.

(4) Before issuing an approval for the transfer of a licence the Regulator must carry out necessary evaluation.

**36. Information requirements** - A network services licensee seeking to enter into a PPA shall apply to the Regulator for approval to do so, and in its application, the licensee shall include the following information:

- (a) letter of intent;
- (b) a basic project description (size, location, technology);
- (c) a summary of the project rationale, explaining:
  - (d) the need for additional capacity;
  - (e) the benefits expected from the project; and
  - (f) how the project will meet projected demand and complies with the National Energy Policy;
- (g) impact on tariffs;
- (h) consistency with the Power System Expansion Plan;
- (i) any relevant information required by the Regulator.

**37. Criteria for regulatory approval** - The Regulator shall base his or her decision to approve a PPA on the basis of the terms of the Act, specifically:

- (a) the general characteristics of the proposed generation facility, including appropriate technology;
- (b) an appropriate tariff;
- (c) evidence that the proposed price and risk allocation in the PPA is both fair and efficient;
- (d) the ability of the licensee under the PPA to cover its costs;
- (e) affordability to the buyer and the end user; and
- (f) any other criteria the Regulator may determine

## **PART 5 CONSUMER COMPLAINTS**

**38. Filing complaints**-(1) Any consumer may file a complaint with the Regulator against an electricity network services licensee.

(2) A consumer may only file a complaint under sub-rule (1) if an initial dispute resolution between the consumer and the electricity network services has failed.

(3) In this rule, "initial dispute resolution" has the same meaning as the Principal Act.

**39. Referral to Regulator** - Subject to the provisions of the Act, if a complaint under rule 38 is not resolved to the satisfaction of a complainant within 30 days from the date of its filing, the electricity network services licensee may refer the matter to the Regulator for resolution.

**40. Regulator to settle** - The Regulator shall investigate and resolve a complaint that is referred to him or her, and which cannot be resolved amicably between the complainant and the electricity network services licensee, within 30 days from the date of receipt of complaint.

**41. Terms of service information** - The electricity network service licensee must provide consumers with accurate, relevant and easily understood information about its terms of services in simple and plain language that describes at least the following:

- (a) consumers rights and responsibilities;
- (b) the capabilities and limitations of its service including the minimum quality of service the consumer is guaranteed to receive when the service is operating;
- (c) redress available to the consumer in the case of not receiving the minimum quality of service;
- (d) description of tariffs and how and when they apply;
- (e) whether the tariffs or charges are subject to change and if so, how the change will be communicated to the consumer; and
- (f) channels for lodging complaints and dispute resolution procedures.

**42. Availability of service** - The electricity network service licensee must ensure that the content of any notice or other communication about the performance of its service clearly

indicates what the consumer might reasonably expect to experience under typical usage conditions in relation to the availability and performance of that service.

**43. Billing information** - Without limiting section 26 of the Act, electricity network service licensee must ensure that the following information is included in any invoice issued to its consumer:

- (a) the consumer's billing name and address;
- (b) the total amount billed, payments or discounts, and the net amount payable by the consumer;
- (c) the billing period covered by the bill;
- (d) the date on which the bill is issued;
- (e) the payment due date;
- (f) any method of payment (or of refund where applicable);
- (g) contact details for complaints and billing inquiries; and
- (h) billing details and processes

**44. Itemisation of charges**-(1) An electricity network service licensee must ensure that consumers have access to itemised details of all charges either on the invoice or on a separate document upon request.

(2) Unless otherwise requested by or agreed to with a consumer, electricity network service licensee must:

- (a) provide itemised billing details for post pay service;
- (b) if applicable, inform a consumer of the notice period required to obtain itemised billing;
- (c) inform a consumer of any applicable charge as a result of a billing request in this sub-rule and obtain the consent of the consumer before that charge is imposed.



**PART 6**  
**PUBLIC CONSULTATION**

**45. Public notice for tariff and other proceedings-(1)**

Subject to the Act, in conducting the multi-year tariff review, annual revisions to the tariff path, and other proceedings with a widespread public interest, the Regulator must:

- (a) conduct at least one community information dissemination workshop in Savaii and one in Upolu to explain the proceeding; and
- (b) receive and record comments.

(2) The Regulator must require the network services licensee to publish, at the licensee's own expense a public notification of its tariff change application in the Savali and one other national newspaper.

(3) Public notices under sub-rule (2) must set out all of the following:

- (a) summarise the proposed tariff changes proposed in the tariff application;
- (b) how stakeholders and the public can participate in the evaluation of the tariff application by the Regulator;
- (c) where a copy of the application and other related information may be obtained.

(4) The licensee must send a copy of the public notice to all relevant stakeholders.

**46. Public consultation proceedings-(1)** Before a final decision on any of the proceedings under these Rules is made by the Regulator, the Regulator must provide his or her draft determination to the licensee and identified stakeholders, for comments before making the final decision;

(2) The Regulator must keep a record of all submissions received under sub-rule (1).

(3) An affected party has the right to view and response to the submissions made by stakeholders and the public.

(4) The Regulator's final decision must:

- (a) be in writing and take into account any submission received;

- (b) give a clear and detailed explanation of the facts relied upon;
  - (c) provide the reasons for the formal decision;
  - (d) be published on the Regulator's official website.
-