



MONTSERRAT

CHAPTER 18.01

ELECTRICITY SUPPLY ACT and Subsidiary Legislation

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

ELECTRICITY SUPPLY ACT

Act 6 of 1970 .. in force 1 March 1970

Amended by Acts: 14 of 1971 .. in force 1 February 1971

24 of 1973 .. in force 1 January 1974

5 of 1981 .. in force 25 August 1981

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ELECTRICITY SUPPLY ORDER – Section 10

S.R.O. 17/1994 .. in force 6 January 1994

Amended by S.R.O.s 55/1994 and 97/2000

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CHAPTER 18.01

ELECTRICITY SUPPLY ACT

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SCHEDULES

CHAPTER 18.01

ELECTRICITY SUPPLY ACT

(Acts 6 of 1970, 14 of 1971, 24 of 1973 and 5 of 1981)

AN ACT TO IMPLEMENT AN AGREEMENT MADE BETWEEN THE GOVERNMENT OF MONTERRAT OF MONTERRAT AND THE COMMONWEALTH DEVELOPMENT CORPORATION AND MONTERRAT ELECTRICITY SERVICES LIMITED FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF ELECTRIC WORKS BY THE MONTERRAT ELECTRICITY SERVICES LIMITED IN MONTERRAT, AND FOR PURPOSES CONNECTED THEREWITH.

Commencement

[1 March 1970]

Short title

1. This Act may be cited as the Electricity Supply Act.

Interpretation

2. (1) In this Act unless the context otherwise requires—

“**base price**” means the contract price of 26.01 cents per Imperial gallon for diesel fuel oil delivered to the Company at any power station operated by the Company in the Island of Montserrat;

“**the Company**” means Montserrat Electricity Services Limited and includes any person duly authorised by the Company to do any act on its behalf;

“**consumer**” means any person for the time being supplied with electricity by the Company;

“**current price**” means the average price payable in cents per Imperial gallon for diesel fuel oil delivered to the Company at any power station operated by the Company in the Island of Montserrat in the calendar month immediately preceding the calendar month in which meters are read;

“**debenture**” means any debenture, debenture stock, mortgage, bond, security or note issued by the Company and for the time being outstanding;

“**electricity**” includes electric voltage, electric current, electric energy and any like energy;

“**electrical line**” means any wire or conductor used or to be used for the purpose of conveying, transmitting or distributing electricity or as

pilot lines for remote control, protection, metering or telecommunication, together with any casing, coating covering, tube, pole stay-wire, bracket, pipe or insulator enclosing, surrounding or supporting the same or any part thereof and any transformer, switchgear, lamp or other works or apparatus connected therewith for the purpose of conveying, transmitting or distributing electricity or transforming its voltage or providing lighting and together also with any building, structure, bracket post or pole required to accommodate or support any such transformer, switchgear, lamp or other works or apparatus;

“Government Electrical Inspector” means the official for the time being appointed by the Governor to the office of Electrical Inspector;

“land” includes any land under whatever tenure held and any estate or interest in land, including any servitude, right or privilege in or over land;

“licence” means the licence granted in section 3 of this Act;

“local authority” means any authority having municipal or administrative jurisdiction over and within any area in the territory;

“month” means calendar month;

“person” includes any body of persons, any corporation, any local authority and any Government Department;

“portable” describes anything capable of being easily and conveniently carried by an individual;

“pipeline” includes pipelines and other works incidental thereto used or to be used for the supply of fuel for generating electricity;

“road” means any road or street or part thereof and includes all bridges, culverts, embankments, approaches, drains, verges, pavements, kerbs, footpaths, parapets and other works or things forming part of any road or street;

“tree” means a tree, bush or shrub;

“undertaking” means the Company’s electricity undertaking in the territory;

“unit” means one Kilowatt-hour, as registered on a meter provided by the Company.

(2) The singular includes the plural and *vice versa*, and the masculine includes the feminine.

(3) Every reference to any Act shall be deemed to include a reference to that Act as the same may be re-enacted or amended from time to time.

(Amended by Act 24 of 1973)

Grant of licence

3. Subject as hereinafter provided, the Company shall have a sole and exclusive licence to generate, transmit, distribute and sell electricity in the territory during the period of 99 years next following the Appointed Day.

Sub-licences

4. With the written consent of the Governor in Council, the Company may authorise in writing any person during the whole or any part of the period of the licence to generate, transmit, distribute and sell electricity upon the terms and conditions and within the area specified in such authority (any person so authorised being hereinafter referred to as "a sub-licensee").

No person shall generate electricity save as provided

5. (1) During the continuance of the licence no person except the Company shall generate, distribute or sell electricity within the territory provided that a sub-licensee shall be at liberty, during the period stated in the written authority granted to him by the Company, to generate, distribute and sell electricity upon the terms and conditions and within the area specified in such authority and further provided that nothing in this section shall prevent any person generating electricity for his own use and consumption for the purpose of providing portable lighting or portable power or for the purpose of driving a vehicle (not being a trolley bus or a vehicle running on fixed rails).

(2) Any person contravening the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$250 or to imprisonment for a period not exceeding six months, and in addition thereto he may be ordered by any Court having summary jurisdiction to dismantle his equipment at his own expense within such time as such Court may prescribe and, if he shall fail to obey the order of such Court within the prescribed time, such Court shall order the equipment to be forthwith dismantled by the Company and shall order such person to pay the Company its reasonable charges for dismantling such equipment.

Supply of electricity to owners and occupiers within area of supply

6. Subject to the provisions of this Act, the Company shall, whenever adequate electricity and equipment are available, upon being required to do so by the owner or occupier of any premises situate within one hundred feet from any distributing main in which there is for the time being available a supply of electricity for the purpose of general supply to private consumers, give and continue to give a supply of electricity for such premises in accordance with the provisions of this Act, any regulations made thereunder, and such terms and conditions as the Company may from time to time prescribe with the approval of the Government Electrical Inspector, and the Company shall furnish and lay any electric line that may be

necessary for the purposes of supplying the maximum power with which any such owner or occupier may be entitled to be supplied under this Act, subject to the conditions following, that is to say—

- (a) the cost of furnishing and laying any electric line required for the supply of electricity to any premises shall, if the Company so requires, be defrayed by the owner or occupier of the premises; and
- (b) every owner or occupier of premises requiring a supply of electricity shall—
 - (i) serve a notice upon the Company specifying the premises in respect of which such supply is required, and the maximum power required to be supplied, and the day (not being an earlier day than a reasonable time after the date of the service of such notice) upon which supply is required to commence;
 - (ii) enter into a written contract with the Company, if required by it to do so, to continue to receive and pay for a supply of electricity, for a period of at least one year, of such an amount that the payment to be made for the same, at the rate of charge for the time being charged by the Company for a supply of electricity to ordinary consumers within the area of supply, shall not be less than $33\frac{1}{3}$ per centum per annum on the outlay incurred by the Company in providing any electric line required under this section to be provided for the purpose of such supply; and
 - (iii) give to the Company, if required by it to do so, security for the payment to it of all moneys which may from time to time become due to it by such owner or occupier in respect of electricity to be supplied by it;

Provided that the Company may refuse to supply electricity to any structure which in the opinion of the Company is not a permanent and durable building:

Provided further that no electricity will be supplied to any new or altered installation until such installation has been approved by the Government Electrical Inspector who may, if he thinks necessary, test such installation or any part thereof.

Maximum power to be supplied to consumer

7. Subject to the provisions of this Act, the maximum power with which any consumer shall be entitled to be supplied shall be of such amount as he may from time to time require to be supplied with, not exceeding what may be reasonably anticipated as the maximum consumption on his premises:

Provided that where any consumer has required the Company to supply him with the maximum power of any specified amount, he shall not be entitled to alter that maximum except upon one month's notice to the Company and provided that the Company is in a position to supply the increased demand and any expenses reasonably incurred by the Company in respect of the service line by which electricity is supplied to the premises of such consumer, or any fittings or apparatus of the Company upon such premises, consequent upon such alteration, shall be paid by him to the Company and may be recovered summarily as a civil debt:

Provided further that the Company may, without incurring any liability for so doing other than liability to make a proportionate abatement in the charges for the supply, reduce as it may think fit the quantity of electricity supplied to any premises, if by reason of any unforeseen circumstances it shall appear that the supply of electricity generated is insufficient to enable the full quantity to be conveniently supplied.

Disconnection

8. (1) The Company shall be entitled to disconnect the supply of electricity to any consumer—

- (a) if ordered to do so by the Government Electrical Inspector; or
- (b) if the consumer is in breach of any provision of this Act or any Regulation made thereunder; or
- (c) for any purpose connected with safety; or
- (d) for the purpose of testing, or maintaining the efficiency of, the Company's electricity system or any part thereof, or protecting the same from damage or failure.

(2) The Company shall not be liable for any failure to supply electricity in accordance with this Act or for any interruption in such supply or for any injury to the person or damage to property resulting from any such failure or interruption unless the failure or interruption is due to the wilful default of the Company. In particular, and without prejudice to the generality of the foregoing provisions, the Company shall not be liable for any such failure or interruption due to any accident or any failure, breakdown or overloading of any part of the Company's electricity system or strike, lock-out or combination of workmen or any storm, tempest or other cause outside the control of the Company.

Type of supply

9. (1) The voltage of electricity supplied for domestic or lighting purposes shall be 230 volts and this shall be maintained by the Company within plus 4% and minus 8% (measured at the consumer's terminals) of such voltage.

(2) The frequency of electricity supplied for any purpose shall be 60 cycles per second and this shall be maintained within plus and minus 3% of such frequency.

(3) The systems of distribution of electricity shall be 3 phase 4 wire for 400 volts between lines and 230 volts between line and neutral, and/or single phase 2 wire for 230 volts between lines with one line earthed and designated "the neutral", all or any of such systems to be used, the choice in any particular case being by the Company according to load conditions and the most economical method of supply; provided that any consumer may by agreement with the Company be supplied with electricity at a voltage in excess of 416 volts and step this down in his own transformers to any voltage for the time being approved by the Government Electrical Inspector.

Charges

10. (1) The Company may make charges for electricity supplied to consumers at such rates as may be prescribed by Order by the Governor in Council from time to time and may also impose on consumers a fuel surcharge calculated in accordance with the provisions of the First Schedule.

(2) The Governor in Council may by Order amend the definition of the term "base price" contained in section 2.

(Substituted by Act 5 of 1981)

Electricity for street lighting

11. (1) Whenever required so to do the Company shall enter into a contract to supply the Government or any local authority with street lighting in any area in the territory for the time being supplied with electricity by the Company.

(2) The Company shall be entitled to charge for electricity supplied for street lighting and for the hire of street lamps (and associated fittings and equipment) on the basis that—

(a) subject to the payment by the consumer of such minimum annual amount as may be agreed in writing between the consumer and the Company, the consumer will pay such monthly sum as may be agreed as aforesaid per street lamp of a specified type and output rating for the time being comprised in the street lighting system in question;

(b) the lighting fixtures are attached to structures already provided for the distribution of electricity for domestic or lighting purposes.

(3) The Company shall be entitled to charge for the provision of any structure erected in the first instance for the mounting of street lighting equipment or appurtenances, such structure becoming the exclusive property of the Company.

Company may require deposit

12. The Company may require any consumer to deposit with the Company, by way of security for the payment of any moneys from time to time due by such consumer to the Company, a reasonable sum of money; such sum of money shall be placed to the credit of a deposit account in such consumer's name in the books of the Company.

Consumer may require company to test meters

13. (1) Whenever requested to do so by any consumer and after payment of the testing fee prescribed by the Company from time to time by such consumer the Company shall test the meter registering the electricity supplied to such consumer against a standard meter and supply the consumer with a certificate showing the result of the test. If the result of the test shows that the meter is registering more than 3 per cent above or below the registration of the standard testing meter the Company shall replace the meter in question and shall refund to such consumer the testing fee paid by him.

(2) The Government Electrical Inspector shall be entitled to supervise any test carried out pursuant to the provisions of the preceding subsection.

Duty free importation of goods

14. During the continuance of the licence, all items which will form part of the fixed assets of the Company and materials and consumable stocks of all kinds imported by the Company for the purpose of its business of generating, distributing and supplying electricity shall be exempt from all customs and other import duties or charges and landing tax:

Provided however that such exemption shall not apply to any plant, machinery, equipment, meters, instruments, vehicles, materials and consumable stocks imported by the Company for resale.

Relief from tax

15. (1) During the continuance of the licence the Company shall be exempt from payment of and liability to all income tax and other taxes based on income or profits.

(2) All dividends on shares and interest on indebtedness paid by the Company during the continuance of the licence shall be exempt from income tax or other tax based on income or profits in the hands of the recipient or recipients thereof.

Erection of electric lines etc. and entry upon land

16. (1) The Company may—

(a) erect or install in, on, under or over any land any poles, electric lines, conductors, sub-stations, pipelines, cables or

other works or apparatus used or to be used for the purpose of transmitting or distributing electricity:

Provided that the Company shall first give notice in writing of its intentions to the owner or occupier of any private land if such owner or occupier can reasonably be ascertained, or (if he cannot be so ascertained) post up such a notice conspicuously on the land in question: and if such owner or occupier shall, within six days from the service or posting up of such a notice, give notice in writing to the Company of his objection thereto, the matter shall be referred by the Company to the Governor; the Company shall not enter upon the private land in question if the Governor shall, within 30 days of being notified by the Company of any such objection as aforesaid, so direct;

- (b) keep in being and use any poles, electric lines, conductors, sub-stations, pipelines, cables or other works or apparatus at any time acquired by the Company from the Government which shall be erected or installed in, on, under or over the land of any other person on the Appointed Day. *(Amended by Act 14 of 1971)*
- (c) alter, substitute, repair or remove any such pole, electric line, conductor, sub-station, pipeline, cable, works or apparatus as is mentioned in paragraph (a) or (b) of this subsection at all times when, in the opinion of the Company, the same may be necessary or desirable.

(2) Subject as aforesaid, the Company for the purpose of erecting, installing, altering, substituting, repairing, or removing any such pole, electric line, conductor, sub-station, pipeline, cable, works or apparatus may enter upon any land and may—

- (a) clear such land;
- (b) dig the soil and remove the surface of such land;
- (c) temporarily close or obstruct such land; and
- (d) generally do all acts and things necessary for such purpose.

(3) For the avoidance of doubt, it is hereby declared that no change in the ownership of any land in, on, under or over which any pole, electric line, conductor, sub-station, pipeline, cable, works or apparatus mentioned in paragraphs (a) or (b) of subsection (1) of this section is erected or installed shall affect the Company's rights in respect thereof or oblige the Company to serve any further notice in relation thereto pursuant to this section.

Entry on premises

17. (1) In the course of construction and for the more effective working of the undertaking, the Company may enter upon and remove from any public or private land any tree or any branch, bough or other part of a tree growing on such land within 100 feet of any electric line and which may tend to interfere with, endanger or otherwise prejudicially affect the working of the undertaking; but the Company shall not, except with the consent of the owner or occupier of such land, enter upon any private land under the provisions of this section until after the expiration of six days' notice in writing given to the owner or occupier thereof or posted up conspicuously thereon. If such owner or occupier shall, within six days from the service or posting up of such a notice, give written notice of his objection thereto, the matter shall be referred by the Company to the Governor. The Company shall not enter upon the private land in question if the Governor shall, within 30 days of being notified by the Company of any such objection as aforesaid, so direct:

Provided that where any condition exists which is dangerous or is interrupting, or threatens to interrupt, the supply of electricity in the territory or any part thereof, the Company may immediately enter upon any private land without the consent of the owner or occupier thereof and take whatever action is necessary to establish safe conditions or to ensure the continuity of the supply of electricity. Whenever the Company takes action under the terms of this proviso the Company shall within three days inform the owner or occupier of the land in question (either by service of a written notice on him or by posting up conspicuously a notice on such land) of the action taken.

(2) Except with the written consent of the Company no person shall erect any building or structure in such a position or manner as may interfere with the supply of electricity through any overhead electric line which belongs to the Company; if after any such overhead line has been constructed, any person without the consent of the Company erects or proposes to erect any building or structure which interferes or would interfere or may interfere with the proper working of such line, the Company may request the owner or occupier of the building or structure in question to remove or adjust the same as may be necessary. If such owner or occupier fails to comply with such request, the Company may apply to the Governor for the removal or adjustment of the building or structure in question and, after making any such enquiry as he may deem necessary, the Governor may make such order as he deems fit. Every such order may, by leave of the High Court, be enforced in the same manner as an injunction granted by the High Court.

Offence of obstructing the Company

18. Any person who without due cause obstructs or attempts to obstruct the Company in the lawful performance of any of the powers conferred on the Company by section 16 or subsection (1) of section 17 shall be guilty of

an offence and shall be liable on summary conviction to a fine not exceeding \$250, or to imprisonment for a period not exceeding six months.

Damage caused by lopping trees

19. Any person who fells, lops or trims any tree thereby causing damage to any electric line or other works or apparatus which forms part of the undertaking shall be guilty of an offence and shall in addition to any penalty that may be imposed on him, be liable to pay the expense of remedying the damage so caused:

Provided however that the Company whenever requested by any owner of land so to do shall fell, lop or trim any tree on such owner's land which is threatening to damage any such electric line or other works or apparatus.

Stealing electricity

20. (1) If any person without legal right, the proof of which shall be upon him, abstracts or causes to be abstracted, or diverts or causes to be diverted, any electricity supplied by the Company, or consumes or uses any such electricity, knowing the same to have been wrongfully or unlawfully abstracted or diverted, such person shall be guilty of an offence and he shall be liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a period not exceeding twelve months.

(2) If any person without legal right, the proof of which shall be upon him, wilfully disconnects, damages or removes or suffers to be disconnected, damaged or removed any electric line, meter, switch, fuse or other works or apparatus belonging to the Company, or alters the index of any meter belonging to the Company or otherwise prevents any such meter from correctly registering any quantity of electricity supplied by the Company, such person shall be guilty of an offence and for every such offence he shall be liable on summary conviction to a penalty not exceeding \$150 for the first offence and not exceeding \$250 for any such subsequent offence, and without prejudice to the foregoing, the Company may recover from such person the amount of any damage by it sustained and may also (notwithstanding any agreement or contract previously existing) discontinue any supply of electricity to such person.

(3) If upon any premises or land in the occupation of a consumer there is connected to any electric line or meter any wire or device capable of wrongfully abstracting, diverting, consuming or using electricity or of preventing any meter from correctly registering any quantity of electricity supply by the Company, the existence of such wire or device shall be accepted by a Court as *prima facie* evidence that such consumer has without legal right abstracted or diverted electricity or (as the case may be) has without legal right prevented a meter from duly registering any quantity of electricity supplied by the Company.

Power of entry

21. The Company may at all reasonable times enter upon any land or premises to which electricity is or has been supplied by the Company for the purpose of inspecting, testing or maintaining the electric lines, meters, accumulators, fittings and other works and apparatus thereon belonging to the Company, or of ascertaining the quantity of electricity consumed or supplied in or to such premises or, where a supply of electricity is no longer required or where the Company is entitled to take away and cut off the supply of electricity from any such land or premises, for the purpose of removing any electric lines, meters, accumulators, fittings or other works or apparatus belonging to the Company:

Provided that the Company shall repair all damage caused by any such entry, inspection, maintenance or removal and provided further that should anyone wilfully or maliciously place or erect anything which impedes or hinders the easy entry, inspection, maintenance or removal by the Company of its property the Company shall be at liberty to remove the impediment or hindrance in question at the cost of the occupier of the land or premises in question and the Company shall not be responsible for any damage caused thereby.

Electric lines etc, not distrainable or subject to execution

22. Where any electric lines, meters, accumulators, fittings, or other works or apparatus belonging to the Company are placed for the purpose of supplying or measuring electricity in or upon any land or premises not being in the possession of the Company, such electric lines, meters, accumulators, fittings or other works or apparatus shall not be subject to distress or to the landlord's remedy for rent of the land or premises where the same may be, nor shall the same be liable to be taken in execution under any process of a Court of Justice, or under any proceeding in bankruptcy or insolvency.

Non-payment of electricity charges

23. If any consumer shall be in default with any payment due by him to the Company in respect of electricity the Company (without prejudice to any other remedy available to it) shall be at liberty to discontinue the supply of electricity to such consumer until such time as such payment together with the Company's reasonable charges for the re-connection of such consumer's electricity services have been paid.

Company may run lines etc, on roads without charge

24. (1) It shall be lawful for the Company, subject to the Company making good to the reasonable satisfaction of the Governor all damage occasioned thereby, to erect, install or replace along or under or over any road in the territory without payment of any way-leave rent fee or other charge, any poles, electric lines, conductors, sub-stations, pipelines, cables or other works or apparatus, to remove or repair all or any of the same, to

retain all or any of the same already so erected or installed without payment as aforesaid, and in connection with any such erection, installation, replacement, removal or repairs to break up, excavate and temporarily obstruct any such road.

(2) Whenever the Company breaks up or excavates any road, it shall with all convenient speed complete the work for the purpose for which the road was broken up or excavated. Where a road has been broken up or excavated, the Company shall make the same good to the reasonable satisfaction of the Governor and shall carry away the rubbish occasioned thereby. Until the road has been made good the Company shall fence the road where it has been broken up or excavated and shall maintain during the hours of darkness a light sufficient to warn persons using the road of the danger constituted by the breaking up or excavation. At any place where a road has been broken up or excavated by the Company, the Company shall keep the same in good repair for three months after it has been made good and for such further period (if any) not exceeding twelve months as the sub-soil of the road at that place shall continue to subside.

Payment of compensation

25. (1) In the exercise of any powers conferred upon it by this Act, the Company shall cause as little inconvenience and damage to other persons as is reasonably practicable and the Company shall pay compensation to any person who suffers damage to his property in consequence of the exercise of such powers by the Company.

(2) The amount of such compensation shall, failing agreement, be determined by a single arbitrator appointed in accordance with the provisions of subsection (2) of section 31.

(3) If by reason of the presence of any pole, electric line, conductor, sub-station, pipeline, cable or other works or apparatus belonging to the Company which is alongside or under or over any road any person shall be injured or shall suffer damage to his property, the Company shall save harmless and keep indemnified, in respect of such injury or damage, the person by whom such road is repairable.

Company may harness geothermal power

26. It shall be lawful for the Company, without making payment therefor, to harness geo-thermal power throughout the territory at such sites (whether on Crown or private land) as may hereafter be reserved for public electricity supply purposes by a notice given by the Governor and published in the *Gazette*.

Land Acquisition Act. Crown land

27. (1) For the purpose of the Land Acquisition Act any land reasonably required by the Company for the purpose of its business of generating, transmitting or supplying electricity in the territory shall be deemed to be required for a public purpose. Any land compulsorily acquired in

accordance with the Land Acquisition Act for the purpose of making the same available to the Company for its said business shall be transferred to the Company at a price equal to the actual cost of such acquisition.

(2) The Governor may, whenever requested by the Company so to do, transfer to the Company the freehold title of any Crown land reasonably required by the Company for the purpose of the Company's said business at a price equal to the value of such land on the open market or at such lesser price as the Governor may determine.

Landholding Control Act

28. Notwithstanding the provisions of the Landholding Control Act and without the necessity for the grant of any licence under that Act the Company shall be entitled at all times to hold as owner tenant or mortgagee any land in the territory and any person shall be entitled at all times to hold an estate or interest as mortgagee in all or any land for the time being held by the Company.

Power of Government to revoke licence at the end of 30 or 55 years

29. (1) The Governor shall be entitled to revoke the licence on the last day of the first 30 years of the licence, or, if not revoked then pursuant to this section, on the last day of the first 55 years of the licence provided always that no purported revocation of the licence under this subsection will be effective unless the Governor has given to the Company not less than 24 months' previous notice in writing of such revocation.

(2) If pursuant to the foregoing provisions of this section the Governor revokes the licence, the Government shall, upon the revocation of the licence, purchase from the respective registered holders thereof at the price and in the manner described in section 30 all shares and debentures issued by the Company which are then held otherwise than by or on behalf of the Government, any statutory corporation incorporated under the laws of Montserrat or any company the entire issued ordinary share capital of which is for the time being in the beneficial ownership of the Government or of any such statutory corporation.

Registered holders

30. (1) The Government shall pay to the respective registered holders of all debentures issued by the Company, which the Government is obliged to purchase in accordance with the provision of section 29, a purchase price equal to the amount of the principal moneys outstanding on the debentures held by them respectively at the date of the revocation of the licence together with all unpaid interest which has accrued thereunder up to such date and together also with the amount of any premium payable on early redemption which would have been payable if the debentures had been redeemed on such date.

(2) The Government shall pay to the respective registered holders of all Preference shares issued by the Company, which the Government is

obliged to purchase in accordance with the aforesaid provisions, a purchase price equal to the amount paid up on the Preference shares held by them respectively at the date of the revocation of the licence together with the amount of any premium due on the redemption thereof and together also with a sum of money equal to the aggregate of the arrears (if any) of any fixed cumulative dividend (if any, and whether earned or declared or not) on the Preference shares held by them respectively and the proportion of the dividend on such shares (whether earned or declared or not) attributable to the proportion of the then current financial year of the Company which has expired at the date of the revocation of the licence.

(3) If pursuant to section 29 the Governor revokes the licence on the last day of the first 30 years of the licence, the Government shall pay to the registered holders of all Ordinary shares in the capital of the Company, which the Government is obliged to purchase in accordance with the aforesaid provisions, a purchase price equal to that proportion of the aggregate of—

- (a) the net value of the Company's assets at the date of the revocation of the licence, calculated in accordance with the provisions set out in Parts I and II of the Second Schedule to this Act; and
- (b) a sum of money calculated in accordance with the provisions set out in Part III of the Second Schedule of this Act;
(Amended by Act 14 of 1971)

which the aggregate amount paid up on the Ordinary shares being purchased from the registered holders hereof bears to the aggregate amount paid up on the whole of the Company's issued Ordinary share capital at the date of the revocation of the licence, such purchase price to be divided among such registered holders in proportion to their holdings of such shares.

(4) If pursuant to section 29 the Governor revokes the licence on the last day of the first 55 years of the licence, the Government shall pay to the registered holders of all Ordinary shares in the capital of the Company, which the Government is obliged to purchase in accordance with the aforesaid provisions, a purchase price equal to that proportion of the net value of the Company's assets at the date of the revocation of the licence (such net value being calculated in accordance with the said provisions set out in Parts I and II of the Second Schedule to this Act) which the aggregate amount paid up on the Ordinary shares being purchased from the registered holders thereof bears to the aggregate amount paid up on the whole of the Company's issued Ordinary share capital at the date of the revocation of the licence, such purchase price to be divided as aforesaid.

(5) Any purchase price payable by the Government in accordance with the foregoing provisions of this Act for any shares or debentures of the Company shall be paid before the expiry of one year from the date of the revocation of the licence and shall bear interest, such interest to be

calculated from such date until payment at the prime rate for the time being charged by commercial banks in Montserrat and to be payable half-yearly.

(6) If the Governor shall serve upon the Company a valid notice revoking the licence, the Company shall not thereafter, except with the previous written consent of the Governor, issue any share or debenture.

(7) If any disagreement shall ever arise as to the correct amount of the purchase price to be paid by the Government to any shareholder or debenture holder of the Company in accordance with the foregoing provisions of this Act, the amount to be so paid to the shareholder or debenture holder in question shall be determined by a single arbitrator appointed in accordance with the provisions of subsection (1) of section 31.

Appointment of arbitrator

31. (1) On any reference to arbitration under section 30 the arbitrator shall be appointed by agreement between the Governor and the Company or, in default of such agreement, by the President of the Institution of Electrical Engineers of the United Kingdom.

(2) On any reference to arbitration under section 25 the arbitrator shall be appointed by agreement between the person claiming compensation and the Company or, in default of such agreement, by the Registrar of the High Court.

Arbitration proceedings

32. (1) Save as otherwise provided in this Act and save where inconsistent with the provisions of this Act, the Arbitration Act shall apply to every reference to arbitration under this Act

(2) Upon any reference to arbitration under section 30 of this Act the arbitrator may state any question of law, arising in the course of the reference to him, or any award or part of an award in the form of a special case for the decision of the High Court and an appeal shall lie to the Court of Appeal from any such decision.

Exemption from stamp duties, etc.

33. (1) During the continuance of the licence the Company shall be exempt from payment of all stamp duties including stamp duties on arbitration awards and all mortgages, bonds, debentures and covenants of the Company shall be exempt from stamp duty.

(2) Notwithstanding the provisions of the Companies Act no fee shall be payable to the Registrar of Joint Stock Companies for the registration of any increase in the capital of the Company made after its first registration.

General penalty

34. Any person found guilty of an offence under this Act for which no special penalty is provided by this Act shall be liable on summary conviction to a fine not exceeding \$120 or to imprisonment for a period not exceeding six months.

Regulations

35. (1) After consultation with the Company and after considering any representations made by the Company or by any other interested party the Governor may make Regulations—

- (a) for the protection of consumers and of the public generally against personal injury or damage to property arising from the generation, supply or use of electricity;
- (b) to provide for enquiries to be held in connection with any accident which is or may be attributed to an escape of electricity or to the state or conduct of any part of the undertaking;
- (c) conferring or imposing upon any sub-licensee powers, privileges, obligations and restrictions similar to those imposed or conferred upon the Company by this Act otherwise than by sections 3, 4, 10, 14, 15, 29, 30 and 33;
- (d) for the purpose of preventing or minimising radio interference or electrical interference arising from the generation, transmission, distribution or use of electricity;
- (e) prescribing the qualifications of electrical engineers, chargemen, wiremen and contractors;
- (f) for the examination, licensing and registration of electrical engineers, chargemen, wiremen, and contractors and for the grant of certificates of competency and of registration;
- (g) prescribing the forms of certificates of competency and registration for electrical engineers, chargemen, wiremen and contractors;
- (h) prescribing the fees to be charged in respect of the examination of electrical engineers, chargemen, wiremen and contractors;
- (i) prescribing the forms of certification of inspection to be issued by electrical inspectors, the fees to be charged for inspections to be made by such inspectors and the persons by whom such fees shall be paid.

(2) All such Regulations shall be published in the *Gazette* and shall have the force and effect of law.

Government Electrical Inspector

36. (1) The Governor shall appoint from time to time a person to the office of the Government Electrical Inspector and shall be entitled to remove or replace any person so appointed.

(2) The Government Electrical Inspector shall enforce any Regulations made from time to time under this Act and he shall have the right at all reasonable times to enter, for the purpose of inspecting or testing any electric line or any electrical apparatus or works, upon any land or premises to which electricity is supplied or upon which electricity is generated, transmitted or distributed.

(3) The Government Electrical Inspector shall have the right to direct the Company not to supply electricity to any installation, apparatus or works which he deems unsafe or which, in his opinion, fails to comply in any respect with such Regulations.

(4) The Company shall be entitled to require the Government Electrical Inspector to inspect and test any installation, apparatus or works which the Company has reason to believe is unsafe or fails to comply with such Regulations.

Penalties for breach of rules

37. Any Regulations made under section 26 or 35 may impose penalties for any failure or omission to observe or comply with any of the provisions of the same, such penalties not to exceed \$25 for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence \$5 for every day during which the offence continues.

FIRST SCHEDULE

(Section 10)

The Company shall, in addition to the charges prescribed in accordance with this Act, be entitled to add or deduct a fuel surcharge per unit consumed which shall be calculated from the following formula—

- (a) the total number of Imperial gallons of diesel fuel used at all the company's power stations in the Island of Montserrat during the calendar month immediately preceding the calendar month during which meters are read, multiplied by;
 - (b) the current price less the base price in cents divided by;
 - (c) the total units sold in the Island of Montserrat during the calendar month during which meters are read.
- (Substituted by Act 24 of 1973 and amended by Act 5 of 1981)*

SECOND SCHEDULE

(Section 30)

PART I

The net value of the Company's assets shall be deemed for the purpose of section 30 to equal the aggregate of—

- (a) the amount of the Company's cash in hand or at bank and the value in the open market of the Company's other current assets;
- (b) the value in the open market of the Company's investments and of all land of the Company as if such land were unencumbered with any buildings, plant, works and fixtures erected thereon or affixed thereto;
- (c) an amount equal to the useful life value of each fixed asset of the Company (exclusive of investments and land but inclusive of buildings, plant, works and fixtures erected on or affixed to land), such useful life value being determined by dividing the estimated replacement cost on site of the fixed asset in question by the number of years comprised in the amortisation period shown in Part II of this Schedule opposite to the category of the asset in question and multiplying the same by the number of years of estimated useful life which remained in that asset at the date of revocation of the licence;

after deducting from such aggregate the amount of the Company's debts and other liabilities at such date (contingent liabilities and claims being assessed for this purpose in such manner as may be fair and reasonable) and the amount of all moneys paid up

on such date on any Preference shares of the Company and of any arrears on such date of any fixed cumulative dividend thereon.

PART II

| <i>Category of Asset</i> | <i>Amortisation Period</i> |
|---|--|
| Concrete and steel buildings and civil engineering works | 40 years |
| Buildings and other works of other materials | 15 years |
| Pipelines and storage tanks..... | 30 years |
| Hydraulic turbine generating sets and steam turbo alternators and associated switchgears and auxiliaries..... | 25 years |
| Internal combustion engine generating sets, switchgears and auxiliaries (800 r.p.m. or under)..... | 15 years |
| Internal combustion engine generating sets, switchgear and auxiliaries (over 800 r.p.m.) | 10 years |
| Other electric switchgear and instruments..... | 20 years |
| Electricity meters..... | 15 years |
| Transformers..... | 20 years |
| Transmission and distribution lines | 20 years |
| Other fixed assets | Such number of years as is fair and reasonable in relation to the fixed asset in question. |

PART III

The sum of money referred to in subsection (3) of section 30 shall be a sum equal to the aggregate amount of the Company's net trading profits (computed as hereinafter provided and as certified by the Company's auditors) during the five completed financial years of the Company next preceding the revocation of the licence. For this purpose the Company's net trading profits shall be computed before making any loan redemption provision or other appropriation of profits but after making all other deductions including payment of interest on indebtedness and reasonable provision for depreciation.

ELECTRICITY SUPPLY ORDER – SECTION 10

(S.R.O. 17/1994, 55/1994 and 97/2000)

Commencement

[6 January 1994]

Short title

1. This Order may be cited as the Electricity Supply Order.

Charges for electricity

2. The rates of charges set out in the Schedule below apply to the supply of electricity as shown on meters commencing on the 1st day of February 2001 and thereafter –

SCHEDULE A

(a) Domestic Tariff

All units shall be charged at 48 cents per unit up to 75 units and thereafter at 55 cents per unit.

(b) Commercial

All units shall be charged at 54 cents per unit.

(c) Industrial

All units shall be charged at 47 cents per unit.

Concessions

3. Notwithstanding anything in paragraph 2 above—
- (i) the minimum Domestic Tariff for houses of less than 1200 square feet floor area shall be \$3.50 per month and for houses of and exceeding 1200 square feet floor area shall be \$15 per month.
 - (ii) the minimum Commercial Tariff for premises of less than 1200 square feet floor area shall be \$5 per month and for premises of and exceeding 1200 square feet floor area shall be \$20 per month.

Tariffs

4. (a) The Commercial Tariff shall apply to all premises directly connected to the high voltage systems which are not used exclusively for private residential purposes and are not premises to which the industrial tariff applies.
- (b) The Industrial Tariff shall apply to all premises on which there are installed for the purposes of a manufacturing industry electric motors having an aggregate maximum power output rating of not less than 5 horsepower and not normally in use before the hours of 6 p.m. and 10 p.m. except with prior approval of the Company. For this purpose one horsepower shall be deemed equal to 3/4 kilowatt.

Tariffs for Other Services

5. The rates set out in Column II of Schedule B below shall apply for services set in Column I as from April 1, 1994.

SCHEDULE B

| COLUMN I | COLUMN II |
|--|-----------|
| (a) Reconnection fee | \$15 |
| (b) Service Call fee | \$10 |
| (c) Meter change fee (at customers' request) | \$200 |
| (d) Meter Test | \$15 |
| (e) Transfer of Service | \$25 |

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