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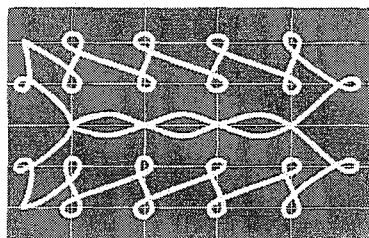
SONT PUBLIES LES TEXTES SUIVANTS

NOTIFICATION OF PUBLICATION

ORDER

**UTILITIES REGULATORY AUTHORITY ACT
NO. 11 OF 2007**

- UTILITIES REGULATORY AUTHORITY
ASSESSMENT FEE RULES ORDER
NO. 35 OF 2017



**Utilities
Regulatory
Authority**

UTILITIES REGULATORY AUTHORITY

ACT NO. 11 OF 2007

Utilities Regulatory Authority Assessment Fee Rules Order No. 35 of 2017

In exercise of the powers conferred on the Authority by subsections 29B(1) and 30(4) of the Utilities Regulatory Authority Act No. 11 of 2007, the Authority with the approval of the Minister of Finance and Economic Management, make the following Order.

1 Purpose

The purpose of these Rules is to give effect to the provision of subsections 29B(1) and 30(4) of the Act.

2 Application

- (1) These Rules apply to all regulated utilities in Vanuatu.
- (2) Despite subsection (1), the Authority may exempt a utility from the application of these Rules.

3 Interpretation

Under these Rules, unless the contrary intention appears:

Act means the Utilities Regulatory Authority Act No. 11 of 2007 and amendments.

Annual revenue means the total gross revenue (excluding VAT) generated by a utility from the regulated services.

Budget year means the calendar year for which assessment fees are to be utilised.

Fund for the purpose of these Rules, includes assessment fees, expenses or costs charged to utilities or any person by the Authority when performing its functions or providing any service under the Act.

Rules mean the Utilities Regulatory Authority Assessment Fee Rules.

Surplus fund, for the purpose of these Rules, means any left over money collected under subsections 29B (1) and (6) of the Act.

VAT means Value Added Tax imposed on utilities pursuant to the Value Added Tax Act [CAP 247].

4 Authority to assess fees based on utilities' annual revenue

- (1) Prior to March 31 of each year, the Authority shall prepare a list of utilities to be assessed in accordance with section 29B of the Act.
- (2) On or before April 1 of each year a regulated utility must provide its audited financial statement to the Authority showing the gross annual revenues generated from the regulated services for the previous calendar year.
- (3) On or before May 1 of each year, based on its approved budget, the Authority shall compute the appropriate percentage of all utility's' annual revenues for the purpose of assessing fees.
- (4) The percentage computed under sub-rule (3) is to be used to compute the fees assessed to each regulated utility, which must not exceed 2 percent of revenues as per statutory limit.
- (5) The amount calculated based on a utility's annual revenue and using the above computed percentage is the fee due for the applicable calendar year.
- (6) After completing the steps laid out in sub-rules (1) to (5), the Authority shall send to each utility an invoice indicating the amount of annual assessed fees to be paid by that utility to the Authority in four quarterly payments due: June 1, September 1, December 1, and March 1.
- (7) No partial payments will be accepted.

5 Payment of Fees

- (1) A utility must pay the quarterly fees assessed and invoiced by the Authority by due dates.
- (2) The fees must be paid by means of bank draft or cheque drawn in favour of the "Utilities Regulatory Authority" or by way of electronic transfer into the Authority's designated Bank Account.

6 Estimated Assessment of Fees

- (1) The Authority may require payment of assessed fees based on a utility's estimated revenues.

- (2) The estimated assessed fees will be adjusted when a utility's audited revenues are available.
- (3) The payment of the estimated assessed fees is to be made in accordance with rule 5.

7 Extension of payment deadline for assessed fees

- (1) A utility may request the Authority to extend its due date for paying the assessed fees.
- (2) The request for an extension under sub-rule (1) must be received by the Authority not less than 10 days before the due date and must outline the reasons for requesting the extension.
- (3) The Authority will review the request for extension and advise the utility of its decision prior to its due date.
- (4) If the Authority decides to grant an extension, which must not exceed 30 days, an extension charge of 2 % of the outstanding assessed fees, to be included when making payment, shall apply.
- (5) The request for an extension will not be granted if the utility has any unpaid regulatory assessed fees, penalties or interest due from a prior period.
- (6) The extension fees paid by a utility under this rule will not be included as a component of that utility's cost when determining the maximum price of regulated service provided by that utility pursuant to section 18 of the Act.
- (7) For avoidance of doubt, extension fee imposed under sub-rule (4) is not regarded as assessed fees, and not subject to the 2% statutory cap.

8 Management of Surplus funds

- (1) For the purpose of subsection 30(4) of the Act, the Authority is to manage any surplus funds in the following manner:
 - (a) 50% of the surplus fund is to be retained in a reserve account to be used as authorized by the Commission; and
 - (b) The remaining 50% of the surplus fund is to be transferred to the following year's budget.
- (2) When assessing annual fees under rule 4, the Authority must take into consideration the surplus fund retained under sub-rule (1) (b).
- (3) To avoid doubt, this rule 8 does not apply to any funds appropriated by the Government.

9 Penalties

If a utility fails to make the payment by the due date or the approved extended due date, the Authority may impose a penalty in accordance with subsection 29C (3) of the Act.

10 Review of the assessed fees

- (1) The Authority may from time to time review the assessed fee and vary, alter or amend the percentage to be charged to utilities.
- (2) The variation, alteration or amendment of the percentage of assessed fee made under sub-rule (1) must not result so as to exceed the 2% cap.

11 Chief Executive Officer to authorise the use of funds

The use of funds collected under these Rules must be authorised by the Chief Executive Officer of the Authority.

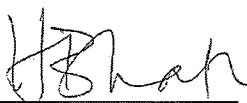
12 Inherent Powers of the Authority

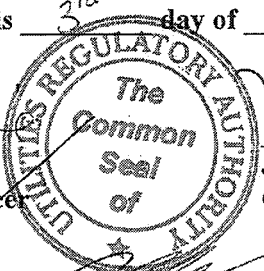
Nothing in these Rules bars the Authority from adopting in conformity with the provisions of the Act and by informing the Minister of Finance and Economic Management, a procedure which varies from provisions of these Rules if circumstances require.


13 Commencement


This Order commences on the day on which it is made.

Made at Port Vila this 3rd day of March, 2017.


Hasso C Bhatia, PhD
Chief Executive Officer




Johnson Naviti
Chairman


John Obed Alilee
Commissioner