

No. 9 of 2015

VIRGIN ISLANDS

**BRITISH VIRGIN ISLANDS ELECTRICITY CORPORATION
(AMENDMENT) ACT, 2015**

ARRANGEMENT OF SECTIONS

Section

- 1...Short title.
- 2...Section 2 amended
- 3...Section 22 amended.
- 4...Part VIIIA inserted.
- 5...Section 36 amended.

I Assent

**(Sgd.) John S. Duncan, OBE,
Governor.
1st May, 2015**

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No. 9 of 2015

An Act to amend the British Virgin Islands Electricity Corporation Ordinance (Cap. 277) so as to provide for the development, and management of renewable energy and for related matters.

[Gazetted 11th May, 2015]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title.

1. This Act may be cited as the British Virgin Islands Electricity Corporation (Amendment) Act, 2015.

Section 2
amended.

2. The British Virgin Islands Electricity Corporation Act, 1978 (referred to in this Act as the “principal Act”) is amended in section 2 by inserting the following new definition in its proper alphabetical order:

“consumer” means a person desirous of receiving the supply of electricity from the Corporation;”.

Section 22
amended.
Cap. 277

3. The principal Act is amended in section 22

(a) subsection (2), by replacing the words “Legislative Council” with the words “House of Assembly”;

(b) by adding immediately after subsection (2), the following new subsection (3):

“(3) A report by the Corporation under this section shall include the following:

- (a) the number of new renewable energy generators in the categories of consumer-generators interconnected to the electricity grid of the Corporation in the twelve months ending on December 31, segregated by quarter and estate;
- (b) the environmental effects of the addition of those generators, as well as the total of all renewable energy generators added pursuant to Part VIII A, including
 - (i) the amount of fossil fuel not utilised by the Corporation due to renewable energy generators;
 - (ii) the amounts of carbon dioxide equivalent which was not generated in the Territory due to renewable energy generators;
 - (iii) all actions taken by the Corporation to achieve the renewable energy objectives in terms of power generation.”.

Part VIIIA
inserted.

4. The principal Act is amended by inserting the following Part VIIIA:

**“PART VIIIA
GENERATION, SUPPLY ETC OF RENEWABLE ENERGY**

Interpretation **30A.** In this Part, unless the context otherwise requires
under this Part.

“consumer-generator” means a consumer who is a user of the Net Billing Metering System and who has entered into an Interconnection Service Agreement;

“Electrical Code” means the latest published edition of the National Electrical Code as published by the National Fire Protection Association of Boston, Massachusetts, U.S.A;

“electrical grid” or “grid” means an interconnected network for delivering electricity from suppliers to consumers which consists of generation stations that produce electrical power, high-voltage transmission lines and distribution lines that connect individual consumers:

“Green Energy License” means a license issued by the Minister under section 30F;

“grid tie” means an electrical connection that is capable of interacting with the Corporation’s electrical grid by both supplying electrical energy to the grid and receiving electrical energy from the grid in compliance with the Electrical Code, any applicable anti islanding requirements and governed by terms and conditions in either an Interconnection Service Agreement or a Power Purchase Agreement;

“independent power producer” means a body corporate established in the Virgin Islands for the purpose of building, owning and operating a renewable energy generating facility and selling all renewable energy generated to the Corporation under a power purchase agreement;

“Interconnection Policy” means a policy document of the Corporation which describes the process and requirements of the Corporation for consumers who desire to establish a grid-tie arrangement by connecting a customer-owned renewable energy generating facility to the Corporation’s electricity distribution system;

“Interconnection Service Agreement” means an agreement between the Corporation and a consumer who has established a grid-tie arrangement by installing renewable energy generation facilities at its premises for own usage and will sell excess power from the renewable energy generation facilities to the Corporation in accordance with the technical and commercial requirements as set forth in the Corporation’s Interconnection Policy;

“licensee” means a holder of a Green Energy Licence;

“Net Billing” means the process of measuring both the quantity of electricity delivered by the Corporation to a consumer-generator and the total quantity of electricity generated by a consumer-generator, of which a part is fed back to the Corporation’s electrical grid during an applicable billing period, which is accomplished by using a Net Billing Metering System which separately records the flow of electrical energy from the Corporation’s electrical grid to the consumer-generator, the flow of electrical energy supplied by the renewable energy generating facility and the flow of electrical energy from the consumer-generator to the Corporation’s electrical grid;

“Net Billing Metering System” means a set of electrical meters of which one is capable of determining the units supplied by the renewable energy generating facilities and another one is capable of determining both the units supplied from the grid to the consumer-generator and the units of energy supplied from the consumer-generator to the grid;

“Power Purchase Agreement” means an agreement between the Corporation and an independent power producer with commercial and technical terms and conditions for supply of electricity generated from renewable energy by the independent power producer to the Corporation;

“renewable energy” means energy obtained from non- depleting sources including

- (a) wind;
- (b) solar;
- (c) hydro;

- (d) biomass;
- (e) bio-fuel;
- (f) landfill gas;
- (g) sewage gas;
- (h) geothermal energy;
- (i) ocean energy; and
- (j) any other energy source designated in writing by the Minister;

Functions and powers of the Corporation under this Part.

30B. For purposes of this Part, the Corporation shall

- (a) develop an Interconnection Policy which shall, amongst other things, specify the maximum allowed capacity of renewable energy generation facilities at a consumer's premises with respect to each category of domestic consumers and for the category of commercial consumers, according to the allowed capacities as set out in regulations;
- (b) specify the total installed capacity of all renewable energy generation facilities connected to the grid by consumers and such capacity shall be capped as set out in regulations;
- (c) develop comprehensive bid procedures relating to independent power producers and the conditions required under the bid procedures, for becoming an independent power producer;
- (d) recommend to the Minister
 - (i) rates chargeable for the purchase of electricity from renewable energy sources;

- (ii) charges for grid connection;
 - (iii) rates chargeable for the transmission of electricity from renewable energy sources: and
 - (iii) fees chargeable for applying for a licence, modification of a licence or renewal of a licence;
- (e) enter into a Power Purchase Agreement with any independent power producer who has been granted a Green Energy License, for the delivery of electricity produced by the renewable energy electricity generating facility, based on terms and conditions as to be agreed upon in the Power Purchase Agreement;
- (f) enter into an Interconnection Service Agreement with a consumer-generator who
 - (i) has installed renewable energy generation facilities at its premises for own usage and will sell excess power from the renewable energy generation facilities to the Corporation in accordance with the technical and commercial requirements as set forth in the Corporation's Interconnection Policy; and
 - (ii) wishes to establish a grid- tie arrangement with the Corporation;
- (g) issue guidelines for the
 - (i) development, efficient management and utilisation of renewable energy sources;

- (ii) connection of electricity generated from renewable energy sources to transmission or distribution systems; and
- (iii) technical standards for the use of renewable energy sources;
- (h) to collect, analyse, interpret and disseminate information and knowledge relating to renewable energy technologies and projects;
- (i) to provide advice to the Minister relating to renewable energy technologies, including advice about the following:
 - (i) improving the competitiveness of renewable energy technologies;
 - (ii) increasing the supply of renewable energy in the Territory;
 - (iii) improving the development of skills in the renewable energy technology sector;
 - (iv) increasing the use of renewable energy technologies;
- (j) to do anything incidental to, or conducive to, the performance of the above functions.

General powers of the Minister under this Part.

30C. (1) The Minister is responsible for providing policy direction for the achievement of the object of this Part.

(2) The Minister may, after consultation with the Corporation and, with the approval of the Cabinet, make regulations to prescribe any matter required

to be prescribed under this Part or which may appear to the Minister expedient for the better carrying out of the provisions of this Part.

(3) Without limiting subsection (2), regulations made under this section may provide for the

- (a) the qualification to be possessed by persons before they may be entrusted with the construction, erection, repair or alteration of renewable energy generating facilities;
- (b) the nature of the tests to be employed for ascertaining whether persons possess the qualifications under paragraph (a), the form and period of validity of licences to be issued to persons found to possess the qualifications and the conditions of issue, suspension and revocation of the certificates;
- (c) rates chargeable for the purchase of electricity from renewable energy sources;
- (d) charges for grid-tie connection;
- (e) rates chargeable for the transmission of electricity from renewable energy sources; and
- (f) fees chargeable for applying for a licence, modification of a licence or renewal of a licence.

Interconnection
Service
Agreement.

30D. (1) A person (hereinafter referred to as a consumer-generator) who wishes to install a renewable energy generation facility on their premises for their own usage and who will sell excess power from the renewable energy generation facility to the Corporation shall, within such time as may be prescribed by the Corporation

- (a) enter into an Interconnection Service Agreement with the Corporation for the supply of electricity to the Corporation; and
- (b) establish a grid- tie connection with the Corporation.

(2) The Interconnection Service Agreement entered into between the consumer-generator and the Corporation shall, for purposes of this Part, operate as a licence entitling the consumer-generator to

- (a) install and operate a renewable energy generation facility on their premises and to sell excess power from the renewable energy generation facility to the Corporation;

(b) establish a grid-tie connection on their premises.

(3) A consumer-generator who has entered into an Interconnection Service Agreement with the Corporation may, subject to the specific terms of the Agreement, carry out any of the following activities:

- (a) generation;
- (b) transportation;
- (c) storage; and
- (d) installation and maintenance.

(4) Notwithstanding subsection (1), a consumer-generator shall not be obliged to enter into an Interconnection Service Agreement with the Corporation if the Corporation is of the opinion that

- (a) it is just and reasonable for the consumer-generator not to enter into the agreement; or
- (b) there has been a change of circumstance such that the consumer-generator would no longer be entitled to enter into the agreement under this Part.

(5) An Interconnection Service Agreement shall take the form as may be prescribed by the Corporation and the Corporation may prescribe different forms of interconnection service agreements having regard to the renewable energy source used and the capacity of the proposed renewable energy installation.

(6) The Corporation shall maintain, in such form as it may prescribe, a register of all interconnection service agreements entered into under this section.

30E. The Corporation shall invite persons who wish to build, own and operate renewable energy generating facilities and who meet the conditions required by the Corporation, to become independent power producers.

30F. (1) A person who becomes an independent power producer, shall not engage in any activity in the renewable energy industry without a licence granted under section 30G.

(2) For the purposes of this section, the activities in the renewable energy industry are

- (a) generation;
- (b) transportation;
- (c) storage; and
- (d) installation and maintenance.

(3) The Minister, in consultation with the Corporation may by Order, limit or expand the scope of activities under subsection (2).

(4) An independent power producer who engages in an activity in the renewable energy industry without a licence issued under section 30G, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding five years or both.

(5) Where the offence is committed by a body corporate, that body corporate is liable on summary conviction to a fine not exceeding twenty thousand dollars.

Application for and, grant of, a licence. **30G.** (1) An independent power producer who wishes to engage in an activity in the renewable energy industry shall apply for a licence, to be known as a “Green Energy Licence”, to the Minister in the prescribed form accompanied with the prescribed fee and information required by the Minister.

(2) The Minister shall acknowledge receipt of an application within five working days after receipt and, inform the applicant in writing of his decision within thirty days after the five days.

(3) Where an applicant meets the conditions required under this Part for a licence to engage in the production of renewable energy, the Minister shall grant the application and issue the applicant with the licence.

(4) Notwithstanding subsection (3), the Minister, on the recommendation of the Corporation, may for reasons founded on

- (a) technical data;
- (b) public safety;
- (c) food security;
- (d) health; and

- (e) environmental safety,

deny the application for a licence to engage in the production of renewable energy.

(5) A licence granted under this section is subject to the conditions specified in the licence and without limiting the foregoing, a licence granted under this section may include conditions requiring the licensee to provide the Corporation with documents, accounts, estimates, returns, environmental impact assessment and management plans or any other information that the Corporation may require for the purpose of performing its functions under this Part.

(6) Subject to section 30L, a licence granted under this section shall entitle the holder thereof to carry out the activities in the renewable energy industry in relation to which the licence was granted.

(7) A licence granted under this Part is not transferable except with the prior written approval of the Minister on the recommendation of the Corporation.

Duration and
renewal of
licence.

30H. (1) A licence granted under this Part is for the period specified in the licence and may be renewed.

(2) An application for the renewal of a licence shall be made to the Minister not later than sixty days before the licence expires and the procedure for the renewal of a licence granted under this Act shall be the same as that applicable to the granting of the original licence.

(3) A licensee who fails to renew the licence or whose application for the renewal of the licence is denied by the Minister shall cease to provide the services to which the licence relates.

Modification of
licence.

30L. (1) The Minister, on the recommendation of the Corporation, may modify a licence granted under this Act if the modification is permissible under the terms of the licence or is required in the public interest.

(2) A modification shall not be made unless the Minister has given the licensee and the general public at least sixty working days notice

- (a) stating that the Minister proposes to make the modification;
- (b) setting out the effect of the modification; and
- (c) inviting representations or objections regarding the modification for consideration.

(3) The notice shall be given by

(a) publication, in the manner that the Minister considers appropriate; and

(b) sending a personal copy of the notice to the licensee,

for the purposes of bringing the matters to which the notice relates to the attention of persons likely to be affected by it.

(4) The Minister shall consider the representations or objections that are made to it before the modification is made.

(5) An independent power provider may modify a licence granted under this Part if the modification is permissible under the terms of the licence.

(6) A modification shall not be made unless the independent power provider has given the Corporation at least sixty working days notice

(a) stating that the independent power provider proposes to make the modification; and

(b) setting out the effect of the modification; and

(c) inviting representations or objections regarding the modification for consideration.

(7) The notice shall be given by sending a personal copy of the notice to the Minister for the purposes of bringing the matters to which the notice relates to the attention of the Minister.

30J. (1) Where the Corporation is satisfied that a licensee is not complying with or has not complied with any of the conditions of the licence, the Corporation shall recommend to the Minister and, the Minister on the recommendation of the Corporation, may suspend or cancel the licence. Suspension or cancellation of licence.

(2) A suspension or cancellation shall not be made unless the Minister has given the licensee

(a) written notice specifying in it, the cause of dissatisfaction of the Corporation requiring the suspension or cancellation of the licence;

(b) the directions for the rectification of the breach; and

(c) the action proposed to be taken by the Corporation in the event of non compliance with the notice.

(3) The Minister shall

- (a) not suspend or cancel a licence without first giving the licensee an opportunity of being heard; and
- (b) where the Minister considers it appropriate, give a period that the Minister considers reasonable for the compliance with the directions of the Corporation.

(4) The Minister shall consider the extent to which a person is likely to sustain loss or damage as a result of the suspension or cancellation of the licence in determining whether it is necessary to suspend or cancel the licence.

(5) A licence which is not utilised within one year after the date of its grant may be cancelled by the Minister, on the recommendation of the Corporation, unless the licensee seeks an extension of the licence from the Minister.

(6) A shall not be cancelled by the Minister unless a notice of not less than thirty days has been served on the licensee.

Appeal. **30K.** A person who is aggrieved by a decision of the Minister under section 30G, 30I or 30J may appeal to the High Court against that decision and the High Court may make any order as it considers appropriate.

Power Purchase Agreement. **30L.** (1) Upon the grant of a Green Energy Licence under section 30G, an independent power provider shall, within such time as may be prescribed by the Corporation, enter into a Power Purchase Agreement with the Corporation for the supply of electricity generated from renewable energy, to the Corporation.

(2) Notwithstanding subsection (1), an independent power provider shall not be obliged to enter into a Power Purchase Agreement with the Corporation if the Corporation is of the opinion that

- (a) it is just and reasonable for an independent power provider not to enter into the agreement; or
- (b) there has been a change of circumstance such that an independent power provider would no longer be entitled to be granted a licence under this section 30G.

(3) A Power Purchase Agreement shall take the form as may be prescribed by the Corporation and the Corporation may prescribe different forms of power purchase agreements having regard to the renewable energy source used and the capacity of the proposed renewable energy installation and, without limiting the forgoing, a Power Purchase Agreement shall specify the feed-in tariff applicable with respect to that independent power producer.

(4) For purposes of this section, “feed-in tariff” means the tariff per kilowatt hour to be paid by the Corporation to an independent power producer.

(5) The Corporation shall maintain, in such form as it may prescribe, a register of all power purchase agreements entered into under this section.

30M. (1) The Corporation shall maintain a system referred to in this section as a Net Billing Metering System, capable of measuring both the quantity of electricity delivered by the Corporation to a consumer-generator and the total quantity of electricity generated by a consumer-generator, of which a part is fed back to the Corporation’s electrical grid during an applicable billing period.

Net Billing
Metering
System.

(2) Subject to subsection (3), the Corporation shall, at the expense of a consumer-generator who has entered into an Interconnection Service Agreement, make available a Net Billing Metering System consisting of one single directional meter and one bidirectional meter as specified in the Interconnection Policy.

(3) The Corporation may not impose on a consumer-generator any fee or charge that would increase the consumer-generator’s minimum monthly charge to an amount greater than that of other consumers of the Corporation in the same rate class as the consumer-generator.

(4) The billing period for Net Billing will be on a monthly basis, or as determined by the billing cycle of the Corporation and the consumer-generator shall be billed for the amount of kilowatt-hours delivered by the Corporation to the consumer-generator and for the total amount of kilowatt-hours delivered by the renewable energy generating facility, deducted by the amount of kilowatt-hours delivered by the consumer-generator to the Corporation, against the Corporation’s retail tariff for the consumer-generator’s tariff category.

(5) The readings of the Net Billing Metering System shall provide the amount of kilowatt-hours

- (a) delivered by the Corporation to the consumer-generator;
- (b) produced and delivered by the renewable energy generating facility;
- (c) delivered by the consumer-generator to the Corporation’s grid.

(6) The Corporation shall at the same time purchase the kilowatt-hours produced and delivered by the renewable energy generating facility at a tariff to be set by the Corporation, subject to review by the Corporation and the amount for these kilowatt-hours to be purchased by the Corporation will be offset against the amount which results from the amount to be billed according to subsection (4).

(7) In case the difference of the amounts as calculated according to subsection (4) and (6) is negative the credit earned by the Consumer-generator shall be carried over as a credit from month to month and applied against the first and subsequent net positive bills until the said credit is fully utilized.

(8) In the event of termination of service, any unapplied credits earned by the consumer-generator will be issued to the Corporation and the Corporation shall pay to the consumer-generator the amount equal to the credits earned by the consumer-generator.

30N. (1) The Corporation shall offer Interconnection Service Agreements to consumer-generators on a first-come, first-serve basis, except that the aggregate installed capacity of renewable energy generation facilities shall not exceed amounts as recommended by the Corporation and the Corporation shall conduct a review after the first year and thereafter every three years of the maximum aggregate installed capacity allowable to consumer-generators and make the necessary recommendations and, in the first instance, this shall be up to fifteen percent of the peak demand in total on the interconnected grids of Tortola, Virgin Gorda and Jost van Dyke and up to one hundred percent in total on the grid of Anegada.

Capacity of renewable energy generation facilities.

(2) The maximum allowed capacity of renewable energy generation facilities at the premises of a consumer referred to in section 30D is set at 50Kw in the case of a domestic consumer and, at 500Kw in the case of a commercial consumer.

30O. (1) A person who transmits or distributes electricity without an Interconnection Service Agreement commits an offence and is liable, on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding six months or both and, in the case of a continuing offence to a fine not exceeding one thousand dollars for each day during which the offence continues and, where the offence is committed by a body corporate, that body corporate is liable on summary conviction to a fine not exceeding twenty thousand dollars and, in the case of a continuing offence, to a fine not exceeding one thousand five hundred dollars for each day during which the offence continues.

Offences.

(2) A person who increases the capacity of their renewable energy generation facilities to a higher level than the level authorised in the Interconnection Service Agreement or the licence, commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or both and, in the case of a continuing offence to a fine not exceeding one thousand five hundred dollars for each day during which the offence continues and, where the offence is committed by a body corporate, that body corporate is liable on summary conviction to a fine not exceeding twenty thousand dollars and in the case of a continuing offence to a fine not exceeding two thousand five hundred dollars for each day during which the offence continues.

(3) A court convicting a person under this section may order that person to, at their expense, dismantle the equipment, within such time as the court may specify in the order and a failure by the person to comply with the court order shall constitute contempt of court.”.

Section 36
amended.

5. The principal Act is amended in section 36 by adding immediately after subsection (4), the following new subsection (5):

“(5) This section does not apply to a licence issued under Part VIIIA.”.

Passed by the House of Assembly this 17th day of March, 2015.

(Sgd) Ingrid Moses-Scatliffe,
Speaker.

(Sgd) Phyllis Evans,
Clerk of the House of Assembly.