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WATER AND SEWERAGE (GENERAL PROVISIONS) REGULATIONS

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WATER AND SEWERAGE (GENERAL PROVISIONS) REGULATIONS – SECTION 97

(Statutory Instrument 104/2008)

Commencement [19 November 2008]

1. CITATION

These Regulations may be cited as the Water and Sewerage (General Provisions) Regulations.

2. INTERPRETATION

In these Regulations —

“**Act**” means the Water and Sewerage Act;

“**Chairperson**” means the Chairperson of the Commission appointed pursuant to section 36 of the Act;

“**Commission**” has the same meaning as in the Act;

“**member**” means a member of the Board of the Commission appointed pursuant to section 36 of the Act.

Commission

3. TENURE OF BOARD MEMBERS

- (1) The first members of the Board of the Commission shall hold office for 3 years, 4 years, 5 years, 6 years and 7 years respectively.
- (2) The term of the Chairperson shall be at least 5 years.
- (3) A Board member appointed subsequently to the first appointments shall hold office for 5 years, except if appointed to fill a vacancy, in which case he or she shall hold office for the unexpired term.

4. REMUNERATION AND RETAINER

- (1) A member of the Board is entitled to remuneration of \$300 per meeting at which the member is present.
- (2) The Chairperson is entitled to a monthly retainer of \$1500.

5. COMMISSION STAFF

The Commission may appoint staff who shall work under the supervision and direction of the Executive Director including any one or more of the following —

- (a) a manager whose responsibilities include managing consultants in the preparation of tariff decisions and the preparation of recommendations to the Minister as to service standards and other regulations to be issued under the Act;

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- (b) one or more employees whose duties include handling customer concerns and overseeing processes for public and media involvement in the activities of the Commission;
- (c) a legal officer or advisor whose duties include legal advice to the Commission and legal review of Commission decisions and recommendations;
- (d) an administrative assistant, who shall perform administrative duties.

6. CONSULTANTS

- (1) The Commission may contract consultants to provide assistance that it may require for the proper carrying out of its functions.
- (2) In the case of a consultancy in excess of \$25,000 the Commission shall seek offers from at least 3 consultants qualified to perform the work and shall choose among the respondents according to criteria announced at the time of the request for proposals.
- (3) The scoring shall be made public at the time that the winning bid is announced.

7. PUBLIC CONSULTATION

- (1) The Commission shall engage in public consultation before making a decision.
- (2) Subject to sub regulation (3), the Commission shall decide the manner and time frame for public consultation.
- (3) The Commission shall allow a party, who has a particular interest other than the general public interest, sufficient involvement to enable the party to protect its interest.
- (4) Notwithstanding sub-section (2), the Board members and any persons authorised by it have the right to ask questions of a party involved in Commission proceedings.

8. PURPOSE OF PROCEEDINGS

The primary purpose of all Commission proceedings and hearings is to provide the Commission with the information necessary to reach a fair decision and the Commission shall organise its proceedings to that end.

9. PUBLIC ACCESS TO INFORMATION

- (1) The Commission shall give the public access to information in its possession unless the Commission considers that such access should be precluded on grounds of personal privacy, pending litigation, national security or commercial sensitivity.
- (2) The Commission, licensees and permit holders shall maintain a web site designed to keep the public apprised on questions of substantial public significance.
- (3) The Commission shall also maintain and disseminate brochures on the rights of water customers, methods of water conservation, and all other matters of substantial public concern.
- (4) Board members shall take an active role in meeting with the public to hear public concerns, and to explain Commission decisions and policies.

10. FORM OF COMMISSION DECISIONS

The Commission's decisions shall be in writing and publicly available and shall contain a statement of the Commission's reasoning.

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11. CITIZENSHIP ADVISORY COUNCILS

The Commission, licensee and permit holders may each create citizen advisory councils, comprising groups of citizens who are interested in assisting in ensuring an effective water sector and good water services

Form and content of applications and orders

12. FORM OF SERVICE LICENCE APPLICATION

- (1) An application for a service licence pursuant to section 6 of the Act shall contain the following information —
 - (a) a complete description of the service to be rendered;
 - (b) a complete description of the proposed service territory including, if the licence is to be exclusive, the precise geographic boundaries;
 - (c) proof of the competency of the licensee to render the service adequately and in an environmentally acceptable manner;
 - (d) proof that the licensee is financially qualified to render the service;
 - (e) a complete set of proposed tariffs, and a description of the method by which the tariff was calculated;
 - (f) plans and schedules for investments to improve service, including pressure stability, service extension, loss reduction, metering and water conservation;
 - (g) proof that any other necessary permits have been obtained or are likely to be obtained;
 - (h) a complete description of the prospective licensee, including all corporate affiliates, all other countries in which that company or corporate affiliate renders water service and a copy of annual reports prepared by the prospective licensee or corporate affiliate;
 - (i) the identities and resumes of the individuals proposed to act as chief executive officer, chief operational officer, and chief financial officer;
 - (j) additional information that the Minister or the Commission may request.
- (2) Upon receipt of an application that conforms with the requirements in sub regulation (1), the Commission shall provide public notice of it, together with a description of the process by which members of the public may inform themselves as to the application and may make their views known to the Commission.
- (3) In evaluating the licence application, the Commission shall take into account and make specific findings as to the experience of the applicant in operating water systems in the Caribbean region and elsewhere, including whether the applicant has been successful in improving service, in connecting new customers, in increasing efficiency (including loss reduction), and in improving customer satisfaction and the applicant's record of environmental compliance and so as to provide potable water shall also be the subject of specific findings.
- (4) The Board shall also evaluate the specific technical and managerial experience of individuals identified to manage licensees' operations in Saint Lucia and this evaluation shall include their performance with regard to the criteria set out in sub regulation (3).

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13. FORM OF COMMISSION ORDERS

- (1) The Commission shall include in its orders the decision reached and an explanation of the reasons for the decisions and the Commission may also refer to prior Commission and Ministerial decisions where applicable.
- (2) The Commission shall make the Order available to the public and to the media.

14. FORM OF APPLICATION FOR HEARING

An application for a hearing under section 64(2) of the Act shall be in writing and shall state the date of the original application and the reasons, if known to the applicant, why no recommendation and or decision has been rendered and the Commission shall give public notice of the requested hearing.

15. WAIVER OF REGULATIONS

- (1) Upon a finding that good cause exists, the Minister or the Commission that has promulgated any requirement or procedure pursuant to this section, may waive or modify the application of that regulation and the waiver shall be limited in time and scope to the minimum necessary to meet the good cause that has been found.
- (2) The Commission or Minister as the case may be shall, before the waiver takes effect, publish on its website and in at least 2 newspapers in general and at least weekly circulation in Saint Lucia —
 - (a) the waiver granted;
 - (b) the reason for giving the waiver;
 - (c) the scope and duration of the waiver; and
 - (d) a justification of why the waiver was the best way to achieve the objective sought.

16. PROCEDURE FOR HANDLING COMPLAINTS

- (1) The Commission shall attend to customers in a prompt and courteous manner and a response to a communication in writing by a customer is prompt if done within 48 hours.
- (2) The Commission shall keep a record of all customer contacts and shall separate the record in the following categories —
 - (a) information seeking;
 - (b) service related;
 - (c) metre accuracy;
 - (d) service connection;
 - (e) disconnection; or
 - (f) miscellaneous.
- (3) The record shall include the name and address of the complainant, the date and time received, a summary of the specifics of the contact, and the name of the official handling the contact.
- (4) A complaint lodged under any category other than 'information seeking' shall not be processed unless the customer has first raised the complaint with the licensee, and has been unable to resolve it.

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- (5) The official handling the complaint shall make every effort to resolve it informally, but should also advise customers of their rights pertaining to the type of complaint filed.
- (6) If informal resolution is not possible, the official handling the complaint shall use such fact finding methods as are appropriate to the matter in dispute and should prepare a written decision to be issued by the Board.
- (7) A complete record of complaints and decisions should be kept and reported to the Board at regular intervals.