
Office of Utilities Regulation

Rules and Procedure for Operation and Administration of the Electricity Sector System Benefit Fund (SBF)

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OFFICE OF UTILITIES REGULATION

ABSTRACT

This document sets out the rules and procedures, which will govern the operation and administration of the Electricity Sector System Benefit Fund (“SBF”) established pursuant to the Electricity Act, 2015 (“the EA”). Section 50 of the EA requires that the SBF be administered and controlled by the Office of Utilities Regulation (the “Office”).

Among other things, the document outlines the legal basis for establishing the SBF, the stakeholders’ roles in relation to the SBF, the proposed treatment of the SBF assets, and the level and types of monitoring required for proper accountability to all stakeholders, specifically the electricity customer stakeholder group.

Table of Contents

Subject	Page
ABSTRACT.....	1
Table of Contents.....	2
DEFINITIONS AND ACRONYMS	3
1. LEGISLATIVE AND REGULATORY FRAMEWORK	5
2. RATIONALE FOR THE RULES.....	6
3. PURPOSE AND OBJECTIVES OF THE SBF.....	6
4. THE SOURCES OF FUNDING.....	7
5. APPLICATION OF SBF	7
6. ROLE OF THE MINISTER	7
7. ROLE AND RESPONSIBILITIES OF JPS – COLLECTION AND DEPOSIT OF SBF INFLOWS	7
8. ROLE AND RESPONSIBILITIES OF IMPLEMENTING ENTITY.....	8
9. ROLES AND RESPONSIBILITIES OF THE OUR.....	10
10. MANAGEMENT OF THE SBF ACCOUNT.....	12
11. THE FUND – TAXATION	12
12. TREATMENT OF ASSETS.....	12
13. ACCOUNTABILITY	13
14. SBF REPORTS.....	14
15. AUDITS.....	15
16. APPEALS	15
17. REVIEW OF THE RULES OF PROCEDURE.....	15

DEFINITIONS AND ACRONYMS

1. **“Assets”** means the material assets and facilities owned, operated or leased by the Licensee, including real estate.
2. **“CPLTD”** means the Current Portion of Long Term Debt
3. **“EA”** means the Electricity Act, 2015
4. **“EEIF”** means the Electricity Efficiency Improvement Fund
5. **“Implementing Entity”** refers to the JPS and any other entity which requests and/or is approved by the OUR to receive funding from the SBF to undertake projects.
6. **“JPS”** means the Jamaica Public Service Company Limited.
7. **“kWh”** means Kilowatt-hours, which is the unit of energy used to measure electricity consumption.
8. **“Licence”** means the Jamaica Public Service Company Limited Electricity Licence, 2016, which authorizes JPS to generate, transmit, distribute and supply electricity in Jamaica.
9. **“Licensed Business”** means the business of generation, transmission, distribution, supply and despatch of electricity as carried out by the Licensee under the Licence.
10. **“Licensee”** means the JPS.
11. **“Minister”** unless the context requires otherwise, means the Minister with oversight responsibility for the energy sector.
12. **“Office” or “OUR”** means the Office of Utilities Regulation as established pursuant to the OUR Act.
13. **“OUR Act”** means the Office of Utilities Regulation Act.
14. **“O&M”** means the Operation and Maintenance of the utility plant as a part of the process of generating, transmitting, distributing and supplying electricity.
15. **“Rate Base”** means the value of the net investment in the Licensed Business.
16. **“SBF”** means the System Benefit Fund established in accordance with the Electricity Act, 2015
17. **“SBF Assets”** means assets purchased with proceeds from the SBF.
18. **“System”** – for the purpose of the SBF means, the transmission and distribution network consisting wholly of electric lines owned and/or operated by the Licensee and used to transmit electricity, including any electrical plant and meters owned or operated by the

Licensee in connection with the transmission and distribution of electricity, and interconnected generation facilities.

1. LEGISLATIVE AND REGULATORY FRAMEWORK

- 1.1. The Office of Utilities Regulation (“OUR” or “Office”) is established under the Office of Utilities Regulation Act (“OUR Act”) to regulate, among other things the generation, transmission, distribution and supply of electricity. This power to regulate the electricity sector is confirmed in the Electricity Act, 2015 (“EA”) where at section 4(d) the EA states that *“the Office shall regulate the electricity sector generally”*.
- 1.2. Section 50 of the EA establishes the System Benefit Fund (“SBF”), and specifies that it should be administered and controlled by the Office. Subsection (2) and (3) of section 50 of the EA prescribes the sources of financing and the permitted usage of the SBF as follows:
- “(2) The System Benefit Fund shall be financed from-*
- (a) tariffs, as the Office may direct;*
 - (b) fines collected pursuant to this Act;*
 - (c) monies from the Consolidated Fund;*
 - (d) any other source.*
- (3) The resources of the System Benefit Fund shall be utilized –*
- (a) to increase the penetration of renewable energy or energy security;*
 - (b) for the promotion of energy conservation;*
 - (c) for the purpose of providing electricity to rural areas; and*
 - (d) for any other purpose that the Minister may prescribe by Order published in the Gazette.”*

1.3. In exercise of his powers under section 50(3)(d) of the EA, the Minister with responsibility for the electricity sector (“Minister”) prescribed in the Electricity Act (System Benefit Fund) Order, 2017 (dated 2017 August 16) that the resources of the SBF be utilised for the purpose of *“allowing the Jamaica Public Service Company Limited to recover the costs of implementing the Smart Streetlight Programme in accordance with the Electricity Licence, 2016”*. The Jamaica Public Service Company Limited Electricity Licence, 2016 (“Licence”) at Condition 28, paragraph 6 describes the Smart Streetlight Programme and further states that *“The Office shall utilise a Fund or the System Benefit Fund (as defined in the EA), to allow the Licensee to recover the costs of implementing Smart Streetlight Programme”*.

- 1.4. The Office now sets out in this document the rules and procedures to govern the operation and administration of the SBF in accordance with the provisions of the EA and orders issued thereunder, as well as the Licence.

2. RATIONALE FOR THE RULES

2.1. These Rules and Procedures for the operation and administration of the SBF are to:

- i. Provide clear and precise understanding of the principles, parameters and processes necessary for good governance of the SBF;
- ii. Establish the framework within which the OUR may effectively administer and monitor the activities of the SBF;
- iii. Facilitate transparent and prudent administration of the SBF; and
- iv. Ensure that the OUR, the Licensee and any Implementing Entity are held accountable for all transactions, management and accounting related to the SBF, or use of proceeds of the SBF, as the case may be, in keeping with section 50 of the EA.

2.2. These Rules set out, among other things, the:

- i. Scope, purpose and objectives of the SBF;
- ii. Circumstances and the purposes for which the SBF may be applied;
- iii. The Minister's responsibilities;
- iv. The OUR's roles and responsibilities;
- v. Implementing Entities' roles and responsibilities; and
- vi. Accounting with regard to the SBF;

3. PURPOSE AND OBJECTIVES OF THE SBF

3.1. The purpose of the SBF is to create a financial mechanism through which funding may be made available for the following uses:

- i. To increase the penetration of renewable energy;
- ii. To enhance national energy security;
- iii. To promote energy conservation;
- iv. To provide electricity to rural areas;
- v. To facilitate the recovery of cost by JPS for implementing the Smart Streetlight Programme in accordance with the Licence; and
- vi. For any other purpose that the Minister with responsibility for the electricity sector may prescribe by Order published in the *Gazette*.

- 3.2. In respect of rural electrification programmes which involve the use of renewable energy, the EA further stipulates at section 52(7) that *“to the extent that the solution in the rural area is from renewable energy sources, the System Benefit Fund may be utilized to subsidize the tariff to rural customers to achieve grid parity.”*

4. THE SOURCES OF FUNDING

- 4.1. The SBF shall be financed from:
- a) Electricity tariffs, as the Office may direct from time to time;
 - b) Fines collected pursuant to the EA;
 - c) Monies paid from the Consolidated Fund;
 - d) JPS’ outstanding liabilities to the EEIF;
 - e) Other sources as may be designated from time to time.

5. APPLICATION OF SBF

- 5.1. The proceeds of the SBF may be used to fund both capital and applicable recurring operations and maintenance (O&M) expenditures, which are directly related to the purpose and objectives of the SBF as outlined in section 3 above. Capital expenditures should include all O&M expenditures which are incurred during construction.

6. ROLE OF THE MINISTER

- 6.1. In keeping with the purposes and objectives of the SBF as delineated in section 3 above, and generally the objects of the EA, the Minister may, from time to time, identify specific purposes to which the resources of the SBF may be utilized.
- 6.2. Where such specific purposes are identified by the Minister, the Minister shall, in a timely manner, issue and have published in the Gazette the relevant Ministerial Order authorising the utilization of the resources of the SBF for the said specific purposes.

7. ROLE AND RESPONSIBILITIES OF JPS – COLLECTION AND DEPOSIT OF SBF INFLOWS

- 7.1. JPS shall be required to do, and be held accountable for the following:
- a) The billing and collection of tariff revenues from its customers as may be approved and designated as inflows to the SBF by the OUR from time to time. The billed amounts shall be identified as a separate line item on customers’ bills.
 - b) Setting aside, as required, the approved monthly tariff revenues as may be designated by the OUR for the SBF, and depositing such sums within fifteen (15) days of the end

of each month in the bank account established by the OUR for deposit of SBF inflows.

- c) In relation to a) and b) above, a bad debt adjustment factor shall be applied to determine the total monthly sums to be deposited by JPS in respect of the monthly tariff revenues that are designated for the SBF. This bad debt adjustment factor gives recognition to the fact that not all of JPS' billed revenues will be collected owing to customers' delinquency. The bad debt adjustment factor shall be 98.9%¹ and shall be used to multiply the OUR determined nominal monthly tariff revenue for the SBF, to ascertain the amounts to be deposited by JPS as required in b) above.

7.2. In the event that the Office decides that the residual balance or a specified sum of money shall be transferred from an existing or terminated fund operated by JPS to the SBF, JPS shall execute the specified transfer, after consultation with the Office on the most efficient mechanism and timing to effect the transfer, in keeping with the Office's determination.

8. ROLE AND RESPONSIBILITIES OF IMPLEMENTING ENTITY

8.1 The Implementing Entity shall be required to do, and be held accountable for the following:

- a) Developing the project plans for programmes or activities that it or the Minister (pursuant to powers under section 50(3)(d) of the EA) may identify for implementation and funding from the SBF, and seeking the Office's No Objection to the plans, and the Office's approval for funding to be allocated for same from the SBF. The plans submitted to the OUR for approval shall include but not be limited to:
 - (i) A detailed technical description of the project. Among the technical specifications, the description shall establish the project's objectives, physical boundaries, timelines, environmental impact, risks, as well as the parameters that will be used to evaluate and measure its success.
 - (ii) Adequate project schedule, including major milestones and projected commercial operations date, where applicable. This will be used to gauge the implementation of the project, in an efficient and timely manner.
 - (iii) Proposed arrangements for operations and maintenance after the completion of the project;
 - (iv) The projected expenditure and income stream associated with the project;
 - (v) A comprehensive cost benefit analysis, on a short, medium and long term basis. The benefits captured in the analysis shall be measurable, and at minimum shall include one or more of the following:
 - Reduction in the overall retail price of electricity;
 - Energy savings attributable to improved energy efficiency;

¹ Bad debt is currently set at a benchmark of 1.1% of revenues.

- Reduction in the fuel import bill or any other favourable balance of payment effect;
 - Increase/facilitation of renewable energy penetration or energy security in alignment with the Government's renewable energy policy
 - Improvement in grid modernization (e.g. intelligent network, system automation and distributed energy resources (DERs))
 - Improvement in overall energy efficiency (e.g. installation of low loss equipment and upgrading/reconfiguration of existing systems, power flow/voltage management, effective energy conservation strategies and programs towards the reduction of system losses)
 - Improvement in the electricity regularization
 - Acceleration in growth in the demand for electricity;
- (vi) A qualitative benefit analysis where applicable;
- (vii) In the case of JPS, an analysis of the impact that the project will have on the System and JPS' revenue;
- (viii) Schedules indicating the monthly and/or quarterly funding requirements from the SBF.
- b) Successfully implementing and executing its SBF funded projects.
- c) Providing the OUR with the documentary evidence of the process that is followed in procuring all goods and services in connection with the SBF funded projects. The procurement process should as best as possible adhere to the Government of Jamaica Public Sector Procurement Procedures.
- d) Keeping all project documents and other documentary evidence of all goods and services procured in the implementation of approved SBF projects for a retention period of not less than seven (7) years.
- e) Submitting annual, quarterly and special reports (as further detailed in section 14 below), as may be requested by the OUR from time to time, in relation to its SBF funded projects.
- 8.2. Within fourteen (14) days after completion of a project, the Implementing Entity shall engage the services of an independent accountant to verify the total project expenditure and submit the report to the OUR within thirty (30) days of engagement of the accountant. In the event that there is an unused portion of the total amount that was disbursed from the SBF, the Implementing Entity shall return such unused amounts to the OUR within thirty (30) days after the report is submitted to the OUR.

9. ROLES AND RESPONSIBILITIES OF THE OUR

- 9.1. In the administration and control of the SBF, the OUR shall ensure that the regulatory principles of transparency and efficiency are observed in all matters.
- 9.2. The OUR shall review and analyse all proposals submitted to it for no objection and approval of funding from the SBF in accordance with section 8.1a) above in a timely manner.
- 9.3. In the administration and control of the SBF, the OUR shall be held accountable and shall have the authority and the responsibility for:
 - a) Establishing the required bank accounts for the efficient and effective management of the SBF;
 - b) Approving and adjusting the level of funding applicable to the SBF through electricity tariffs or any other sources, if it deems fit;
 - c) Setting the broad investment criteria and/or limitations on instruments in which the SBF may be invested;
 - d) Monitoring of movements in the SBF account(s) by way of reviewing and analysing quarterly and annual reports submitted by the financial institution(s) in accordance with section 10.4 below;
 - e) Ensuring that periodic audits of the SBF are conducted in accordance with these Rules and Procedures and the EA;
 - f) Publishing the statements of accounts of the SBF at the time of the publication of the OUR's Annual Report;
 - g) Evaluating project proposals submitted to the OUR for funding from the SBF, and completing such evaluation within ninety (90) days after proposals have been deemed acceptable by the OUR. The OUR will notify the Implementing Entity of its decision within fourteen (14) days after completion of the evaluation;
 - h) Establishing a screening and ranking mechanism for the approval of funding from the SBF for competing projects, if necessary. In making the decision to grant funding from the SBF, the OUR will take into consideration current operational challenges, the needs of the System, and the policy initiatives and direction of the Government, if any, with respect to the various purposes of the SBF as prescribed in section 50(3) of the EA;

- i) Reviewing and issuing its non-objection to project plans and approval of project budgets produced by an Implementing Entity in respect of an SBF funded project;
- j) Establishing performance targets for each SBF funded project based on information derived from the project's cost benefit data analysis, and monitoring the progress and performance of the projects on an ongoing basis against these targets by way of reviewing and analysing quarterly, annual and special reports.
- k) Reviewing and approving requests for disbursement of funds from the SBF against project schedules and/or project activities and their associated funding requirements. Disbursement of proceeds from the SBF will be done within thirty (30) days of receipt of a request for funds submitted by an Implementing Entity in accordance with the relevant project schedule, but subject to the availability of funds;
- l) Reviewing and approving, as it deems fit, requests from an Implementing Entity for additional funding from the SBF for a project beyond that initially approved in the project budget;
- m) Discontinuing the financing from the SBF of a project if, within a reasonable time period and after receiving adequate notification, the Implementing Entity is unable, through the project, to deliver the expected benefits, or fulfil the relevant purpose or project objective, and/or, in the case of JPS, achieve the projected impact of the project on the System; and
- n) Preparing and publishing annual, quarterly and special reports as provided for in section 13 below.

9.4. The OUR shall establish and implement arrangements and procedures for the receipt and deposit of funding for the SBF from sources other than electricity tariffs and JPS' liabilities to the EEIF as are appropriate to the circumstances, as and when these sources are identified and/or become available.

9.5. The Office shall publish the prevailing *“Rules and Procedure for the Operation and Administration of the Electricity Sector System Benefit Fund”* on its website and in any other format that it deems appropriate.

10. MANAGEMENT OF THE SBF ACCOUNT

- 10.1. The SBF proceeds shall be deposited into an interest bearing account at a financial institution(s) that is approved by the Office. The OUR will apply the same policies and investment criteria to the SBF as it applies to its own investments.
- 10.2. So as to ensure the prudent investment of the proceeds of the SBF, investments in the following financial instruments are prohibited:
 - i. Foreign securities outside the stipulation of the Bank of Jamaica
 - ii. Derivatives, options and futures contracts
 - iii. Non-marketable securities
 - iv. Fiduciary participation in any real estate deal
 - v. Commodities
 - vi. Short sales
- 10.3. The Office or its designated officer(s) shall be required to give approval to all withdrawals from the SBF account.
- 10.4. The financial institution(s) in which the SBF account is (are) held shall be required to submit quarterly and annual reports to the OUR.

11. THE FUND – TAXATION

- 11.1. By virtue of the fact that all tariff revenue inflows to JPS in relation to the SBF represents an immediate and direct expense to the SBF, such inflows shall not be subject to the company's corporate income tax.
- 11.2. Where the SBF assets are jointly funded by the SBF and the JPS, or where such assets are not readily identifiable, the Office may determine a deemed amount of tax recoverable on the basis of the expenditures charged to the SBF, the class of assets and the allowances for depreciation applicable. The amount of taxation recoverable shall be accrued to the SBF within one hundred and eighty (180) days after the close of a calendar year.

12. TREATMENT OF ASSETS

- 12.1. JPS shall establish and maintain regulatory accounts and asset register in respect of its SBF funded projects and assets funded with the proceeds of the SBF, that reflect all revenues, financial transactions and assets, independent of its general financial accounts and asset register. This is to enable the OUR, to better monitor the activities of the SBF

- funded projects and make appropriate adjustments to the electricity tariff based on the status of these regulatory accounts and asset register.
- 12.2. The book value of the SBF assets controlled by JPS shall be revalued from time to time in a manner consistent with similar assets owned by JPS, predicated on the formula approved by the OUR. The book value of the SBF assets at any given time shall therefore reflect the value based upon the most recent revaluation.
 - 12.3. The costs for any revaluation of SBF financed assets that are controlled by JPS shall be recovered by way of the JPS' annual O&M cost through tariffs.
 - 12.4. JPS will be required to maintain and repair the SBF assets in accordance with the standards required for its own assets as set out in Condition 6, paragraph 4 of the Licence, i.e. JPS “...shall maintain (which shall include appropriate registration in respect of intellectual property) and repair all relevant assets throughout the term of this Licence in accordance with good industry practice so as to enable it to meet its obligations under this Licence.”
 - 12.5. During JPS' Five Year Rate Review Process, the OUR, shall make appropriate adjustments to JPS' asset base in order to account for SBF assets as recorded and reported in the regulatory asset register.
 - 12.6. Should SBF assets that are controlled by JPS be required for use in the delivery of services and/or activities other than those services and/or activities that form part of the Licensed Business, JPS shall first obtain the approval of the Office for any such deployment of SBF assets to such services and/or activities. Where these service and/or activities are revenue generating, the Office will determine, after consultation with JPS, the proportion of revenue that should flow into the SBF from such services and/or activities.
 - 12.7. Where SBF assets that are controlled by JPS are jointly funded by proceeds from the SBF and other means, JPS shall, within the scope of the price control mechanism, isolate all relevant costs directly associated with the SBF from the rate base. Such allocation will be subjected to the review and approval of the Office.

13. ACCOUNTABILITY

- 13.1. The OUR will account for operations of the SBF and monitor the usage of the relevant SBF proceeds by way of annual, quarterly and special reports that will be prepared by the OUR, in addition to those reports that shall be submitted by the Implementing Entities. Such reports shall set out, among other things:
 - i. All inflows and outflows of the SBF; and
 - ii. The overall progress of the SBF projects.

13.2. The primary objective of the OUR's monitoring function is to ensure that the SBF is effectively maintained and managed thereby achieving the stated objectives for which it is established.

14. SBF REPORTS

14.1. Each Implementing Entity shall provide rolling quarterly reports to the OUR concerning its SBF funded project within thirty (30) days of the end of each quarter. These reports shall contain inter alia:

- i. A statement showing the inflows of SBF proceeds received from the OUR and the outflows in acquiring SBF assets and/or paying other expenses.
- ii. A statement detailing the variance between budgeted expenditure and actual expenditure for the SBF projects.
- iii. A summary of the capital items purchased and any associated expenditure from the SBF.
- iv. A summary of the Implementing Entity's total capital expenditure and O&M expenditure in relation to the projects that are being funded with proceeds from the SBF.
- v. An update on the overall progress of the SBF projects that are being implemented.

14.2 Each Implementing Entity shall also provide annual reports to the OUR concerning its SBF funded project within thirty (30) days of the end of each year. These reports should include, but not be limited to:

- The status of ongoing SBF funded projects;
- Variance analyses of actual expenditure versus budgeted expenditure on all approved items and projects;
- The classification, valuation and analysis of SBF Assets, where applicable.
- An evaluation of completed SBF funded projects vis-a-vis the approved budget, the expected benefits/extent of fulfilment of the relevant purpose or project objective, and, in the case of JPS, the projected impact of the project on the System and the JPS' revenues.

14.3 The OUR may also request the Implementing Entity to submit special reports from time to time. At the time of the request, the OUR will also advise of the specific focus of the report and the information required to be included in such report. The Implementing Entity shall submit a special report to the OUR within thirty (30) days of the date of receipt of the request for such report from the OUR.

15. AUDITS

- 15.1. The Office shall cause an audit of the SBF to be done at least once every three (3) years and the cost of conducting such an audit shall be paid from the proceeds of the SBF. The auditor shall among other things, certify whether the operations of, and expenditures from the SBF are consistent with the rules set out herein.

16. APPEALS

- 16.1. In the event that an Implementing Entity is aggrieved by a decision of the Office under these Rules (referred to in this section as an “aggrieved party”), the aggrieved party may request a review of the decision by the Office within thirty (30) days of its receipt of the decision.
- 16.2. The Office shall review the decision and issue its final position within thirty (30) days of receiving the request, or such longer period as may be agreed with the aggrieved party.
- 16.3. If the aggrieved party is dissatisfied with the Office’s position after the review, then:
- (i) In the case of JPS, it may appeal to the Appeal Tribunal established under Condition 32 of the Licence; or
 - (ii) In the case of any other Implementing Entity that is a licensee under the EA, it may appeal to the Electricity Appeal Tribunal established under section 51 of the EA.

17. REVIEW OF THE RULES OF PROCEDURE

- 17.1. The Office shall review the Rules and Procedures every three (3) years, or earlier if special circumstances makes such a review necessary. In conducting the review, the Office shall consult relevant stakeholders in the electricity sector in order to arrive at a determination that is transparent, balanced and prudent.