SAINT LUCIA

STATUTORY INSTRUMENT, 2020, No. 156

[6th October, 2020]

In exercise of the power conferred under section 97 of the Water and Sewerage Act, Cap. 9.03, the Minister responsible for public utilities, after consultation with the National Utilities Regulatory Commission, makes these Regulations:

Citation

1. These Regulations may be cited as the Water and Sewerage (Tariff) (Amendment) Regulations, 2020.

Interpretation

2. In these Regulations, "principal Regulations" means the Water and Sewerage (Tariff) Regulations, Cap. 9.03.

Amendment of regulation 2

3. Regulation 2 of the principal Regulations is amended by deleting the definition of "legacy asset value".

Substitution of Schedule 2

4. The principal Regulations are amended by deleting Schedule 2 and by substituting the following —

"SCHEDULE 2

(Regulation 4)

INDEXATION FORMULA

The tariff will be adjusted annually according to the following indexation formula to reflect changes in the weighted average of specific input prices:

$$T_t = T_{t-1} * [1 + (0.4\Delta L + 0.3\Delta E + 0.2\Delta I + 0.1\Delta CPI) + K]$$

Where:

T = Tariff

t = Year in which the adjustments will be implemented (current year),

t-1 = Year prior to the year in which the adjustments will be implemented

L = Wage Index, measured by the wage rate for the lowest grade of worker at a similar utility company locally or regionally approved for this purpose by the Commission.

ΔL = Change in wage index, as calculated by: $(L_t - L_{(t-1)}) / L_{(t-1)}$

E = Tariff for high voltage electricity supply (per kWh)

ΔE = Change in electricity tariffs, as calculated by: $(E_t - E_{(t-1)}) / E_{(t-1)}$

I = Industrial index weighting for maintenance costs as measured by changes to the following categories in the US Department of Labor Producer Price Index. (This index does not take into account currency fluctuations and must be adjusted during a triennial tariff review to provide for exchange rate fluctuation if the currency in Saint Lucia is no longer pegged to the US Dollar):

Abbr.	Industry Category	Product Category	Change Calculated by:
P	Pump and pumping equipment mfg	Domestic Water Systems	$\Delta P = (P_t - P_{t-1}) / P_{t-1}$
FM	Total fluid meter and counting device mfg	Liquid Meters	$\Delta FM = (FM_t - FM_{t-1}) / FM_{t-1}$

ΔI = Change in Industrial Index, as calculated by: $(\Delta P + \Delta FM)/2$

CPI = Saint Lucia Consumer Price Index, as published by the Saint Lucia Department of Statistics

ΔCPI = Change in CPI, as calculated by: $(CPI_t - CPI_{t-1}) / CPI_{t-1}$

K = K factor. This is to be determined by the Commission during each triennial tariff review.

All indices (t) are the latest available indices at the time of the review and t-1 = the index applied one year before t.

The Commission shall apply the annual tariff adjustment formula equally to all tariff classes in the Service Licensee's Tariff Scheme.".

Substitution of Schedule 3

5. The principal Regulations are amended by deleting Schedule 3 and by substituting the following —

"SCHEDULE 3

(Regulation 7)

TRIENNIAL TARIFF ADJUSTMENT

The triennial tariff adjustment procedure comprises three steps:

1. Defining the service licensee's reasonable cost of service
2. Determining the allowed real revenue for each year
3. Setting the tariff rates.

1. Defining the reasonable cost of service

For each year in the tariff review period, the reasonable cost of service is measured by applying the following formula:

C = (RAV x RoR) + Dep + Opex

Where:

C = Reasonable Cost of Service

RAV = Regulatory Asset Value (1.1)

RoR = Allowable Rate of Return (1.2)

Dep = Depreciation (1.3)

Opex = Operating and Maintenance Expenditure based on Current Prices (1.4)

1.1 Determining the Regulatory Asset Value

The Regulatory Asset Value is to be determined using the following formula:

*Regulatory Asset Value = Opening Assets + Forecast Capital Expenditure – Forecast Depreciation – Forecast Customer and Government Contributions

Where:

Opening Assets	=	Regulatory Asset Value at the start of the Tariff Review Period as determined below
Forecast Capital Expenditure	=	New assets forecast to be created annually, after the start of the Tariff Review Period, including rehabilitation and maintenance of existing assets and new infrastructure
Forecast Depreciation	=	Annual amount for depreciation forecast from the start of the Tariff Review Period
Forecast Customer and Government Contributions	=	Assets forecast to be paid for by the customers or by Government over the tariff review period (e.g. connection assets)

*All assets that are used in providing the service to customers are to be considered service licensee's assets. Assets are to be valued on a historic cost basis.

Opening Asset Value

For the first triennial tariff review application, opening assets will refer to a historic cost-based value of the assets of the service licensee in the year of the tariff review application. This value will be determined by a financial advisor, approved by the Commission, engaged by the utility.

In subsequent tariff reviews, the Opening Asset value is to be calculated according to the following formula:

$$\text{Opening Asset} = OA_{t-3} + \sum_{1}^{t=3} \textit{Actual Capital Expenditure} - \sum_{1}^{t=3} \textit{Actual Depreciation} - \sum_{1}^{t=3} \textit{Actual Customer and Government Contributions}$$

t = Year of the Triennial Tariff Review

t-3	=	Final year in the previous Tariff Review Period
OA_{t-3}	=	Opening Assets in the previous Tariff Review Period.
$\sum_{1}^{t=3}$ Actual Capital Expenditure	=	Actual new assets created, including rehabilitation Actual Capital Expenditure and maintenance of existing assets and new infrastructure over the past three years, adjusted under regulation 11;
$\sum_{1}^{t=3}$ Actual Depreciation	=	Actual annual amount for depreciation recorded Actual Depreciation over the past 3 years
$\sum_{1}^{t=3}$ Actual Customer and Government Contributions	=	Actual assets paid for by the customers and Actual Customer and Government by Contributions over the Government Contributions past three years (e.g. connection assets).

1.2 Allowable Rate of Return

The service licensee's allowable rate of return must be calculated according to the following formula:

RoR	=	Bank Rate + Q

Where:

RoR	=	Pre-tax Rate of Return
Bank Rate	=	Average twelve months deposit rate paid by commercial banks in Saint Lucia
Q	=	Additional return required by investors for an investment with similar risk characteristics, calculated as described below.

Calculating Q

Q is to be calculated at every third triennial tariff review in the following way:

1. In year one, a financial advisor, approved by the Commission, advises on the full post-tax equity return on investment in businesses with commensurate risk levels to the service licensee, an applicable gearing or leverage ratio, and an estimated debt risk premium.

   At future triennial tariff reviews, the Commission shall review the estimated debt risk premium if there is sufficient evidence that existing levels are inadequate or excessive.

2. The Commission shall calculate Q according to the following formula:

$$Q = \frac{g(1-t)d + (1-g)e}{(1-t)} - Bank\ Rate$$

Where:

g = Gearing or leverage ratio defined in step one

d = Debt risk premium defined in step one + the Bank Rate

e = Post-tax equity return defined in step one

t = Saint Lucia's corporate tax rate

Bank Rate = Average twelve months deposit rate paid by commercial banks in Saint Lucia.

1.3 Depreciation

Assets are to be depreciated on a straight line basis, according to a depreciation schedule.

Depreciation must be in accordance with generally accepted accounting principles and practices as used by the service licensee for accounting purposes, or as otherwise specified by the Commission.

1.4 Allowable Operating and Maintenance Expenditure

Allowable Operating and Maintenance Expenditure will include all operation and maintenance costs that are reasonably incurred by the service licensee in providing services to consumers.

Expenses incurred in building customer awareness about aspects of service provision, including billing and tariff information, information on customer obligations and liabilities, complaints processes and customer rights will be included in operations and maintenance expenditure if reasonable and justified.

Goodwill costs, brand building, sponsorships, and any expenses that are incurred in activities other than providing services to Saint Lucian customers will be excluded from the allowable Operating and Maintenance Expenditure.

2. Determining the Allowed Real Revenue*

The Commission shall set the service licensee's Allowed Real Revenue for the next three years in order that: NPV (C) = NPV (R)

Where:

NPV means Net Present Value

C = Reasonable Cost of Service for the Tariff Review Period

R = Total revenue earned by the service licensee from supplying services over the Tariff Review Period

Tariff increases are smoothed by applying a K Factor.

NPV (C) will be calculated according to the following formula:

$$NPV\ (C) = \sum_{t=1}^{3} \frac{C_t}{(1+r)^t}$$

Where:

t = year

C_t = Reasonable Cost of Service in year t

r = Rate of Return (calculated as specified in section 1.2) Tariffs in year t (in current prices)

NPV (R) will be calculated according to this formula:

$$NPV\ (R) = \sum_{t=1}^{3} \frac{RT_t x Q_t}{(1+r)^t}$$

Where:

t = year

RT_t = Tariffs in year t (in current prices)

Q_t = Forecast demand in year t.

K Factor

The K Factor to be applied to each of the three years of the tariff review period, is to be determined as follows:

1. The service licensee's total revenue for each year in the triennial period must be set so that it equals the reasonable cost of service for the same year.
2. The tariff is then to be calculated by dividing the total revenue, by the forecast demand for each year.
3. If the resulting tariff fluctuates significantly from year-to-year, the changes are to be smoothed out so that NPV(C) is still equal to NPV(R) over the triennial period.
4. The smoothed change in tariffs over the triennial period is the K factor for each year of the tariff review period.

* Ensuring the service licensee's ability to finance investment in setting the allowed revenue, and smoothing changes in tariffs over the triennial period, the Commission shall ensure that given reasonable costs and financing requirements, the service licensee is able to meet reasonable debt covenants, including interest and debt service coverage ratios.

3. Setting the tariff rates

The service licensee's tariff review application must include proposed tariffs for the Commission's approval. The Commission shall review the proposed tariffs taking the following into account: the service licensee's allowed real revenue, the principles as stated in Part III, Division 5 of the Act and Part 3 of the Water and Sewerage (Tariff) Regulations.".

Made this 30th day of September, 2020.

STEPHENSON KING,
Minister for public utilities.

ALLISON JEAN,
Chief Executive Officer,
National Utilities Regulatory Commission.

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