



Bulk Generation Sole Use Installation (BGSUI) Licence Evaluation Criteria Guidance

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EVALUATION CRITERIA FOR BGSUI LICENSEES

1. EVALUATION OF BGSUI LICENCE APPLICATIONS

- 1) The BGSUI Licence grants the Licensee the right to generate electricity above the licence threshold from the energy system prescribed in the BGSUI Licence application and approved by the RA, provided that the licence holder uses or stores the electricity generated at its principal location.
- 2) Following the timelines set out by the RA as stipulated in the Regulatory Authority (Application Process for Bulk Generation Sole Use Installation Licences) Administrative Determination 2025 (AD), the RA will review the application and seek any clarifications or additional information from the Applicant that it determines is necessary and appropriate.
- 3) The RA will review each Application and will make its independent assessment prior to issuing its Final Decision to the BGSUI Licence Applicant considering the Evaluation Criteria stipulated in section 2.

2. EVALUATION CRITERIA

- 4) By submitting an Application, each Applicant is confirming that it accepts and will commit to fulfil the Mandatory Requirements set out in this section as well as the Licence Conditions set out in section 4 as a condition of its participation in this BGSUI Licence process and as a pre-condition for the award of a BGSUI Licence.
- 5) The RA will evaluate each BGSUI Licence application according to the criteria detailed in the subsection below and considering its alignment with the Electricity Act 2016 (EA) and any other relevant regulatory and legal documents.

2.1. MANDATORY REQUIREMENTS

- 6) The RA will evaluate whether the BGSUI Licence application meets the Mandatory Requirements prescribed in sections 23(1), 23(2) (with the modifications as set out in the Electricity Amendment Act 2024) and 32(D) of EA, which may be satisfied by showing evidence that confirms that:
 - (a) the applicant is a company registered in Bermuda, a government department or a statutory authority.
 - (b) the applicant has obtained planning permission, which in principle satisfies the condition in section 23(1)(a) that the applicant has obtained such permission as required under the Development and Planning Act 1974, if the proposed installation has not been constructed;
 - (c) the grant of a building permit satisfies the condition in section 23(1)(a) that the applicant has obtained such permission as required under the Building Act 1988, if the proposed installation has not been constructed;
 - (d) the applicant satisfies the condition in section 23(1)(b) to demonstrate the technical capacity required to operate such a facility reliably and safely or, in the case of a company which is not yet providing electricity services, the RA is satisfied that such services will be carried on with the professional and technical skills appropriate to the nature and scale of its proposed regulated activity and facility;
 - (e) the applicant has demonstrated the necessary financial capacity to build and maintain the facility that satisfies the condition in section 23(1)(c);
 - (f) the applicant satisfies the condition in section 23(1)(d) that every person who is, or is to be, a director, controller or senior executive of the applicant company is a fit and proper person to

perform the functions in relation to any regulated activity carried on by the company, having regard to the probity of the applicant and its officers;

- (g) if the applicant is a Government department or statutory authority, the requirement of section 23(1)(c) (necessary financial capacity) is satisfied if the department or authority has obtained the requisite budgetary approval and funding to build, maintain and operate the facility;
 - (h) if the applicant is a Government department or statutory authority, the requirement of section 23(1)(d) (fit and proper person etc) applies to the head of the public authority (as defined by the Schedule to the Public Access to Information Act 2010);
 - (i) the applicant should produce a draft Intermediate Contract with the TD&R Licensee in accordance with section 49A.
- 7) In considering whether to grant a BGSUI Licence to an applicant, the RA shall have regard to:
- (a) whether the applicant's energy needs at its principal location justify the authorization of generation of electricity above the licence threshold demonstrating that monthly exports of energy to the grid are no more than 30% of monthly generation.
 - (b) whether the applicant has satisfactorily demonstrated to the RA —
 - i. that the development is consistent with the purposes listed in section 6 of the EA;
 - ii. that the applicant will be able to conform with the Grid Code; and
 - iii. that the applicant will be able to comply with any relevant technical specifications that are approved by the RA including with respect to generation technology and means of interconnection with the grid.
 - (c) such other matters as may be prescribed by regulations.
- 8) In addition, the RA shall have regard to all the information requested under the Applicant Information of the Application Process.

3. REVIEW OF APPLICATIONS BY THE RA

3.1. EVALUATION SYSTEM

- 9) For each Application submitted, the RA will determine if each Applicant fulfils all the mandatory requirements of the Application outlined in Section 2.1. A 'Yes/No' decision will be applied to each criterion, where 'Yes' indicates that the Applicant meets the criterion and 'No' indicates that the Applicant does not. In determining any application, the RA will proceed with granting the licence if all criteria receive a 'Yes'. If one or more criteria receives a 'No', the RA may seek clarifications or justifications from the Applicant. The RA will assess whether the justifications provided are acceptable and, if so, may proceed with the evaluation. In case the Applicant fails to meet multiple mandatory requirements without a valid justification, the application will be considered unsuccessful.
- 10) In addition to the criteria outlined above and in the Application Process, the RA will also assess each Application against the following aspects:
- a) completeness, clarity and transparency;
 - b) plausibility, feasibility and credibility;
 - c) applicable timetables;
 - d) ease of enforcement (where relevant); and

- e) the degree to which the Application advances the public interest and the policies set out in the Minister's Spectrum Policy Statement.

Failure to sufficiently meet these additional criteria may impact the overall assessment of the Application. If deficiencies are significant and cannot be reasonably justified or remedied, the Application may be deemed unsuccessful.

3.2. DECISION OF THE RA

- 11) The RA will make its independent assessment of the results, in line with the evaluation criteria and evaluation procedures set out in Section 3.1.
- 12) Following this, the RA will issue its Final Decision and will notify each BGSUI License Applicant in line with its decision. The RA will decide whether it will:
 - a) grant a BGSUI Licence (typically with conditions); or
 - b) propose to refuse the applicant's application for a BGSUI Licence.
- 13) During the Assessment Period, the RA shall be entitled to consider comments from members of the public, pursuant to the RA's rules of practice and procedure regarding public consultations under Section 70 of the RAA.

4. LICENCE CONDITIONS

4.1. FEES, AND PENALTIES

- 14) The Licensee shall pay to the RA such Government Authorisation Fees as may be prescribed pursuant to Section 52 of the RAA; and the Government Fees Act 1965.
- 15) The Licensee shall pay to the Authority such Regulatory Authority Fees as may be prescribed pursuant to Section 44 of the RAA and Section 8 of the Electricity (Regulatory Authority Fees) Regulations 2021.
- 16) The Licensee shall pay to the RA any penalties that may be imposed on the Licensee by the RA in accordance with Section 26(1)(a) of EA and Section 94 of the RAA.
- 17) The Licensee shall be liable in accordance with Section 57 of the RAA for failure to pay the fees set out in Conditions 14 and 15 above of this Condition.
- 18) The Licensee shall be liable in accordance with Section 60 of the EA for failure to comply with this Licence.

4.2. COMPLIANCE

- 19) The Licensee shall comply with:
 - a) the Conditions of this Licence;
 - b) the terms of any associated licenses, authorisations and permits issued to the Licensee;
 - c) any Regulations issued by the Minister in accordance with section 54 of EA;
 - d) any Ministerial directions issued by the Minister pursuant to the EA;
 - e) any General Determinations made by the RA pursuant to the RAA and the EA;
 - f) any Administrative Determinations made by the RA pursuant to the RAA and the EA;
 - g) the EA;
 - h) the RAA; and

- i) any other applicable Law, enactment, determination, regulation or order in effect in Bermuda to which the Licensee is subject.
- 20) Where there is an irreconcilable conflict between any applicable Laws, regulation, determination or order, the following order of precedence shall apply: Acts of Parliament, Regulations and Orders made by the Minister, international agreements that apply to Bermuda, General or other Administrative Determinations made by the Authority, and this Licence.

4.3. EXECUTED INTERMEDIATE CONTRACT

- 21) The Licensee shall have negotiated and executed and Intermediate Contract with the TD&R Licensee.

4.4. MODIFICATION OF THE LICENCE

- 22) The Licence may be modified:
 - a) by the RA of its own motion pursuant to Section 29 of the EA and Section 51 of the RAA;
 - b) with the mutual consent of the Licensee and the RA pursuant to Section 29 of the EA and Section 51 of the RAA;
 - c) by the RA following an enforcement proceeding, pursuant to the provisions of section 93 of the RAA; or
 - d) by the RA following any change of Control of the Licensee's Generation.
- 23) Business and/or its TD&R Business pursuant to the operation of Sections 30(3), 21 and 22 of the EA.
- 24) If a BGSUI Licensee, whose application has been approved, makes any changes to their generation capacity/plant that would impact their level and/or profile of generation at any point during the terms of the licence, the Licensee would need to apply BGSUI Licence modification as per section 29 of the EA.
- 25) The RA finds it appropriate to limit one BGSUI Licence per electricity meter subject to paragraph 25 below. Therefore, any potential changes, upgrades, or developments to the approved Project, would require a new BGSUI Licence.
- 26) The RA may, at its discretion, grant an exemption to the limit of one meter allowable per BGSUI Licence in instances where the additional meters are physically situated at the same Location and are demonstrably required for the unique operational configuration of a single, contiguous government-owned sports facility. This exemption shall apply to a maximum of three meters.

4.5. SURRENDER OF LICENCE

- 27) Unless the RA agrees otherwise, the Licensee shall not be entitled to surrender this Licence.
- 28) Unless the RA agrees otherwise, the Licensee shall not, during the term of its Licence, be entitled to cease fulfilling its duties during the term of its Licence.

4.6. COMPLIANCE WITH GRID CODE

- 29) The Licensee shall comply with provisions of the Grid Code.

4.7. PROVISION OF INFORMATION TO THE RA

- 30) The Licensee shall, in accordance with Section 26(1)(f) of the EA, the provisions of Part 8 of the EA and any General Determination by the RA, furnish to the RA in such manner and at such reasonable times as the RA may reasonably require, such Information relating to the electricity sector including any

Information reasonably required by the RA in order for it to comply with its obligations under Section 52 of the EA.

- 31) Subject to the provisions of Part 8 of the RAA and any applicable General Determination by the RA, the Licensee shall permit the RA or persons designated by the RA to examine, investigate or audit, or procure such assistance as the RA may reasonably require to conduct an examination, investigation or audit of, any aspect of the BGSUI activity.
- 32) Subject to the provisions of Section 92 of the RAA and any applicable General Determination by the RA, the Licensee shall permit the RA or persons designated by the RA to enter the Licensee's premises, and shall facilitate reasonable access by them to the premises used by the Licensee, to conduct an inspection, examination, investigation or audit of the Licensee.
- 33) The Licensee shall notify the RA as soon as possible upon becoming aware that it is in a position in which it may potentially breach any Condition set out in this Licence.
- 34) The Licensee shall place a complete copy of this Licence on the Licensee's website or, if no such website exists, in a conspicuous place in the Licensee's principal place of business such that it is readily available for inspection free of charge by members of the general public during normal office hours.

4.8. PROVISION OF INFORMATION TO TD&R LICENSEE

- 35) The Licensee shall furnish to the TD&R Licensee, in such manner and at such times as the RA may direct, such information as the RA may consider necessary to enable the TD&R Licensee to perform the functions assigned to it by law or its TD&R Licence.

4.9. SERVICE STANDARDS AND PERFORMANCE STANDARDS

- 36) The Licensee shall comply with any applicable service standards including those standards relating to power reliability and power quality applicable to it and other standards set out in any General Determination made pursuant to Section 34 of EA.
- 37) The Licensee shall report to the RA in accordance to provisions of any General Determination regarding the same but in any event provide: -
 - (a) details on an annual basis as to which service standards and performance standards it has complied with and which standards it has failed to meet; and
 - (b) where service and performance standards have not been met details regarding any interventions made to rectify such service and performance deficiencies during the last year.
- 38) In addition, within 60 days of the end of each financial year, the Licensee shall submit to the RA a report setting out those matters referred to in Section 36 above in respect of the previous financial year. The Licensee shall, if required by the RA, publish a summary of the report in a manner approved by the RA.
- 39) The Licensee shall operate and maintain the Generating Units in a safe, efficient and economic manner.
- 40) If the Licensee fails to meet its required service standards as set forth in this Licence, the Grid Code, codes of practice or General Determinations, the Licensee shall forthwith discuss with the RA the reasons for any non-compliance and the steps that the Licensee intends to take in order to remedy such non-compliance.
- 41) The RA shall give the Licensee reasonable time to implement the remedial measures notified by the Licensee to the RA pursuant to Section 37 of this Condition.

- 42) If after the Licensee has been given a reasonable opportunity by the RA to implement the steps it has outlined to the RA under Sections 36 and 37, the Licensee still fails to meet its required service standards, the RA shall be entitled to:
- a) impose a financial penalty as determined by the RA on the Licensee in respect of its failure to comply with its required service standards; and/or
 - b) require that the Licensee pay compensation as determined by the RA in respect of its failure to comply with its required service standards pursuant to the terms of this Licence.
- 43) The RA shall review the service standards referred to in this Condition which the Licensee is required to comply with when conducting any tariff review pursuant to Section 37 of the EA.
- 44) The Licensee shall be liable in accordance with the provisions of Section 58 of the EA if it fails to comply with those safety standards set out in Section 58 of the EA.

4.10. CHANGE IN CONTROL OF LICENSEE

- 45) The Licensee shall not complete any proposed change in Control of the Licensee without first obtaining the prior written authorisation of the RA in accordance with Section 30 of the EA and Section 87 of the RAA, which shall not be unreasonably withheld.
- 46) The Licensee shall be liable in accordance with Section 56 of the EA if it contravenes this Condition.

4.11. ASSIGNMENT

- 47) This Licence shall not be transferred or assigned without the prior consent of the RA and Section 30 of the EA shall apply accordingly.
- 48) The Licensee shall not sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other Person, including an Affiliate of the Licensee without the prior written authorization of the RA.
- 49) The Licensee shall be liable in accordance with Section 56 of the EA if it contravenes this Condition.

4.12. ENVIRONMENTAL MATTERS

- 50) The Licensee shall comply with Environmental Laws.

4.13. OPERATIONAL REQUIREMENTS

- 51) The BGSUI generation asset must be in operation within 60 days from the expected effective date stipulated in the application and as approved by the RA.
- 52) Within 12 months of the in-service date and for the purposes of enabling the reports in Condition 53 and 54, the Licensee shall install, maintain and regularly calibrate (within industry specifications) energy metering equipment to accurately measure, in real time, energy consumed, imported, exported, and generated by the Project. Such equipment should follow IEEE standards and provide the level of detail required in Condition 53 and 54 and be independent from the equipment installed by the TD&R Licensee.
- 53) The Licensee shall comply with the limit of monthly exports to the network approved by the RA.

4.14. INFORMATION REQUIREMENTS

- 54) On or before the final business day of November of each calendar year, the Licensee shall submit to the RA a report containing operating statistics for the 12 consecutive months that passed. If the

Licence has been granted less than a full year before this deadline, the report shall include data from the effective date of the licence up to the end of November of the same year.

- 55) These yearly reports shall be submitted to the RA by email and include:
- a) Average hourly imports (in kW) from the network of the TD&R Licensee;
 - b) Average hourly generation (in kW) by the generating unit;
 - c) Average hourly exports (in kW) to the network of the TD&R Licensee; and
 - d) Average hourly total load of the system (in kW) including self-consumption.

4.15. FORCE MAJEURE; OTHER EVENTS

- 56) If the Licensee is prevented from complying with this Licence by acts of God, war, warlike operations, civil commotion, major strikes or any other significant or protracted industrial action, fire, tempest or any other causes beyond the Licensee's reasonable control: -
- a) the Licensee shall notify the RA, as promptly as reasonably practicable, of the obligations of the Licence with which the Licensee cannot comply, the expected duration of the event of force majeure, and the measures the Licensee is taking to overcome the consequences of the event of force majeure; and
 - b) the RA shall suspend such obligations of the License as the RA concludes the Licensee cannot comply with for as long as the event of force majeure continues.
- 57) In addition to events of force majeure, the Licensee shall notify the RA of any fact or event likely to affect materially the Licensee's ability to comply with any Condition of this Licence, or an insolvency-related fact or Insolvency Event in respect of the Licensee or any Affiliate, or any preparatory steps being taken that might lead to an Insolvency Event, immediately upon becoming aware of such fact or event.

4.16. INDEMNIFICATION

- 58) The Licensee shall indemnify the RA against all actions, claims and demands which may be brought or made by any person in respect of any injury or death of any Person or damage to any property arising from any act of the Licensee permitted or authorized by the Licence. The RA shall provide the Licensee with notice of any such actions, claims and demands, but the RA's failure to do so shall not relieve the Licensee of any obligations imposed on the Licensee by this Condition.

4.17. INSURANCE

- 59) Subject to Conditions 59 and 60 below, the Licensee shall obtain and maintain insurance coverage for:
- a) physical damage to the generating unit and ancillary equipment and structures; and
- 60) The Licensee is released from the obligation to maintain insurance under Condition 58 if provision for the liability is made through any of the following alternatives, subject to the approval of the RA: -
- a) self-insurance which refers to the Licensee's financial capacity to meet any liability to a third party in respect of which the Licensee does not otherwise have insurance; or
- 61) The Licensee shall not be required to obtain and maintain insurance if it is not on economic terms. The Licensee shall as soon as reasonably possible inform the RA if it is of the opinion that such insurance is not on economic terms. The RA will consider the Licensee's opinion and if it agrees that the Licensee's opinion is reasonable, confirm to the Licensee that the insurance may be foregone until such time as it may again become available on economic terms.

4.18. NOTICES

- 62) Unless the RA determines otherwise, notices to the Licensee under the Licence shall be in writing and sent by electronic mails to the Chief Executive Officer of the Licensee at the address communicated to the RA from time to time.
- 63) Unless the RA determines otherwise, notices from the Licensee to the RA under the Licence shall be in writing and sent by electronic mail to the Chief Executive of the Authority to @RAB.bm.

4.19. AVAILABILITY OF RESOURCES

- 64) The Licensee shall at all times act in a manner calculated to secure that it has sufficient management resources and financial resources and financial facilities to enable it to:
 - a) carry on its BGSUI Activity; and
 - b) comply with its obligations under this Licence and the EA.