



REPUBLIC OF GHANA

ENERGY COMMISSION ACT, 1997 (ACT 541)

As Amended by

ENERGY COMMISSION (AMENDMENT) ACT, 2016 (ACT 933)¹

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**THE FIVE HUNDRED AND FORTY-FIRST
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE ENERGY COMMISSION ACT, 1997**

AN ACT to establish an Energy Commission; provide for its functions relating to the regulation, management, development and utilisation of energy resources in Ghana; provide for the granting of licences for the transmission, wholesale supply, distribution and sale of electricity and natural gas; refining, storage, bulk distribution, marketing and sale of petroleum products and to provide for related matters.

DATE OF ASSENT: 31ST DECEMBER, 1997.

BE IT ENACTED by Parliament as follows^{3/4}

PART I—ESTABLISHMENT AND FUNCTIONS OF ENERGY COMMISSION

Section 1—Establishment of the Commission.

(1) There is established by this Act an Energy Commission, in this Act referred to as "the Commission".

(2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Commission may for the discharge of its functions under this Act acquire and hold any movable or immovable property, dispose of the property and enter into any contract or other transaction.

(4) Where there is any hindrance to the acquisition of any property under subsection (3) of this section, the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125).

Section 2—Object and Functions of the Commission.

(1) The object of the Commission is to regulate and manage the utilisation of energy resources in Ghana and co-ordinate policies in relation to them.

(2) Without prejudice to subsection (1) of this section, the Commission shall.

(a) recommend national policies for the development and utilisation of indigenous energy resources;

(b) advise the Minister on national policies for the efficient, economical, and safe supply of electricity, natural gas, and petroleum products having due regard to the national economy;

(c) prepare, review and update periodically indicative national plans to ensure that all reasonable demands for energy are met;

(d) secure a comprehensive data base for national decision making on the extent of development and utilisation of energy resources available to the nation;

(e) receive and assess applications, and grant licences under this Act to public utilities for the transmission, wholesale supply, distribution, and sale of electricity and natural gas;

(f) establish and enforce, in consultation with the Public Utilities Regulatory Commission, standards of performance for public utilities engaged in the transmission, wholesale supply, distribution and sale of electricity and natural gas;

(g) promote and ensure uniform rules of practice for the transmission, wholesale supply, distribution and sale of electricity and natural gas;

(ga) promote local content and local participation in the supply, transmission, distribution and sale of electricity and natural gas and the provision of allied services to support national development. [As inserted by the Energy Commission (Amendment) Act, 2016 (Act 933), s.

1]

(h) receive and assess applications, and grant licences under this Act for the refining, storage, bulk transportation, marketing and sale of petroleum products;

(i) establish and enforce standards of performance for bodies engaged in the supply, marketing, and sale of petroleum products;

- (j) promote competition in the supply, marketing and sale of petroleum products;
- (k) maintain a register of public utilities, petroleum product marketing companies, retail stations and reseller outlets licensed under this Act in the country;
- (l) pursue and ensure strict compliance with this Act and regulations made under this Act; and
- (m) perform any other function assigned to it under this Act or any other enactment.

Section 3—Directions of the Minister.

The Minister may give to the Commission such directions of a general character as appear to him to be required in the public interest relating to the discharge of the functions of the Commission.

Section 4—Composition of the Commission.

- (1) The Commission shall consist of³/₄
 - (a) a Chairman;
 - (b) a representative of the National Development Planning Commission;
 - (c) the Executive Secretary of the Commission appointed under section 45 of the Act; and
 - (d) four other persons with knowledge in matters relevant to the functions of the Commission.
- (2) The members of the Commission shall be appointed by the President, acting in consultation with the Council of State.
- (3) The President shall in making appointments under this section have regard to the knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Commission.

Section 5—Tenure of Office of Members of the Commission.

- (1) A member of the Commission other than the Executive Secretary shall be appointed for a period not exceeding five years and shall on the expiration of that period be eligible for re-appointment; except that of the members first appointed, the Chairman and two other members shall hold office for a period of five years, two for a period of four years and one for a period of three years.
- (2) A member of the Commission may at any time by notice in writing to the President resign his office.
- (3) A member who is absent from four consecutive meetings of the Commission without sufficient cause shall cease to be a member.
- (4) The Chairman of the Commission shall notify the President of vacancies which occur in the membership of the Commission within two months of the occurrence of the vacancy.

(5) The Chairman or a member of the Commission may be removed from office by the President for inability to perform the functions of his office, for stated misbehaviour or for any other just cause.

Section 6—Allowances to Members.

The Chairman and the other members of the Commission shall be paid such allowances as the Minister, in consultation with the Minister responsible for Finance, may determine.

Section 7—Meetings of the Commission.

(1) The Commission shall meet for the despatch of business at such times and in such places as the Chairman may determine but shall meet at least once every two months.

(2) The Chairman shall upon the request of not less than three members convene a special meeting of the Commission.

(3) The quorum at a meeting of the Commission shall consist of five members and shall include at least one member of the Commission appointed under section 4(1)(d).

(4) Every meeting of the Commission shall be presided over by the Chairman and in his absence by a member of the Commission elected by the members present from among their number.

(5) Matters before the Commission for determination shall be decided by a majority of the members present and voting.

(6) The Chairman or the person presiding at a meeting of the Commission shall in the event of equality of votes have a second or casting vote.

(7) The Commission may co-opt any person to act as an adviser at its meetings but no co-opted person is entitled to vote at the meeting.

(8) Except as otherwise provided in this section, the Commission shall regulate the procedure for its meetings.

Section 8—Disclosure of Interest

(1) A member of the Commission who has any interest in a contract proposed to be made with the Commission or any matter for discussion by the Commission shall disclose the nature of his interest to the Commission and shall, unless the meeting otherwise directs, be disqualified from participating in any deliberations decision on that contract or matter and shall, in any case be disqualified from voting on any decision on that contract or matter.

(2) A member who fails to disclose his interest under section (1) of this section shall be removed from the Commission.

Section 9—Committees of the Commission.

The Commission may for the discharge of its functions appoint committees consisting of the members of the Commission or non-members or both and may assign to a committee such of its functions as the Commission may determine.

PART II—GENERAL PROVISIONS ON LICENCES

Section 10—Application of this Part.

The general provisions on licences in this Part shall, unless otherwise provided in respect of any particular licence in this Act, apply to all licences that are granted under this Act.

Section 11—Requirement for Licence.

Except expressly exempted under this Act, no person shall engage in any business or any commercial activity for³/₄

- (a) the transmission, wholesale supply, distribution or sale of electricity or natural gas; or
- (b) the refining, storage, bulk transportation, marketing or sale of petroleum products unless he is authorised to do so by a licence granted under this Act.

Section 12—Qualification for Licence.

A licence under this Act may only be granted to³/₄

- (a) a citizen of Ghana; or
- (b) a body corporate registered under the Companies Code, 1963 (Act 179) or under any other law of Ghana; or
- (c) a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152).

Section 13—Application for Licence.

- (1) An application for a licence shall be made to the Commission and shall be in such form and be accompanied with such fee and documents as the Commission shall determine.
- (2) The Commission shall within 10 working days of receipt of an application acknowledge receipt and shall within a reasonable period after the 10 days and in any event not more than 60 days after the 10 days inform the applicant in writing of the decision of the Commission.

Section 14—Grant of Licence.

Subject to this Act, an application under section 13 shall be granted by the Commission unless there are compelling reasons founded on technical data, national security, public safety or other reasonable justification which shall be communicated to the applicant.

Section 15—Conditions of Licence.

- (1) A licence granted by the Commission shall be subject to such conditions as may be specified in the licence having regard to the functions of the Commission and the nature of licence required.
- (2) Without prejudice to subsection (1) of this section, a licence granted under this Act may include conditions requiring the licensee³/₄
 - (a) where applicable, to interconnect its facilities and installations to any transmission systems to which the licence relates; and
 - (b) to provide to the Commission, in such manner and at such times as may be reasonably required, such documents, accounts, estimates, returns or other information as the

Commission may require for the purpose of exercising the functions conferred on it under this Act.

Section 16—Non-transferability of Licence.

A licence granted under this Act shall not be transferable except with the prior written approval of the Commission.

Section 17—Duration and Renewal of Licence.

(1) A licence granted under this Act shall be for such period as shall be specified in it and may be renewed.

(2) Application for renewal of a licence shall be made to the Commission not later than 60 days before the expiry of the licence desired to be renewed.

(3) The procedure for renewal of a licence granted under this Act shall be the same as that applicable to the grant of the original licence.

(4) A licensee who fails to renew his licence or whose application for the renewal is rejected by the Commission shall cease to provide the services to which the licence relates.

Section 18—Power to Modify Licence.

(1) The Commission may, subject to this Act and any regulation made under it, modify any licence granted under this Act if the modification is permissible under the terms of the licence or is required in the public interest.

(2) No modifications shall be made under subsection (1) of this section unless the Commission has given at least 60 working days written notice—

(a) stating that the Commission proposes to make the modifications; and

(b) setting out the effect of the modifications.

(3) The Commission shall in all cases consider any representations or objections that are made to it before the modifications are made.

(4) A notice under subsection (2) shall be given by publication in such manner as the Commission considers appropriate for the purposes of bringing the matters to which the notice relate to the attention of persons likely to be affected by them and by sending a copy of the notice to the licensee concerned.

(5) Any expense incurred or damage caused as a result of modification to a licence made under subsection (1) of this section shall be considered as part of the capital expenditure of the licensee.

Section 19—Suspension or Cancellation of Licence.

(1) The Commission may, where it is satisfied that a licensee is not complying with or has not complied with any of the conditions of his licence, suspend or cancel the licence.

(2) No suspension or cancellation shall be made under subsection (1) of this section unless the Commission has given the licensee concerned a written notice specifying in it the cause of dissatisfaction of the Commission and giving directions for rectification of the breach and

the action proposed to be taken by the Commission in the event of non-compliance with the notice.

(3) The Commission shall not suspend or cancel a licence granted under this Act without first giving the licensee an opportunity of being heard and shall where considered appropriate, give him such period as the Commission considers reasonable to comply with the directions of the Commission.

(4) In determining whether it is necessary to suspend or cancel a licence granted under this Act, the Commission shall consider the extent to which any person is likely to sustain loss or damage as a result of the suspension or cancellation.

(5) A licence which is not utilised within one year from the date of its grant may be cancelled by the Commission after notice of not less than 30 days has been served on the licensee.

Section 20—Complaint to the Minister.

(1) A person aggrieved by the refusal of the Commission to grant or renew his licence under this Act or by any modification, suspension or cancellation of a licence granted under this Act may lodge a complaint with the Minister who shall within 30 days of receipt of the complaint make a decision on it.

(2) A person dissatisfied with the decision of the Minister or where the 30 days expires without such a decision may pursue the matter in the courts.

Section 21—Settlement of Disputes by Arbitration.

The Commission shall at the request of any person licensed under this Act set up an arbitration panel under the Arbitration Act, 1961 (Act 38) to arbitrate and settle any dispute arising between licensees where the parties cannot reach an agreement.

Section 22—Gazette Publication of Licences.

The Commission shall publish in the Gazette and in such other newspapers of national circulation as the Commission may determine, notice of every licence, modification, suspension or cancellation of licence made under this Act; except that publication of a modification, suspension or cancellation of a licence shall not be made where an objection, a complaint or an action has been lodged or initiated with the Commission, the Minister or the courts.

PART III—TRANSMISSION, WHOLESALE SUPPLY AND DISTRIBUTION OF ELECTRICITY AND NATURAL GAS

Section 23—Interconnected Transmission Systems and Transmission Licence.

(1) The national interconnected transmission system for the delivery of electricity and natural gas throughout the country shall be such as shall be determined by the Commission.

(2) Subject to subsection (3) the Commission may on application made to it by a public utility in such form as the Commission shall determine grant a transmission licence to the applicant authorising the licensee to operate exclusively the national interconnected transmission systems for the transmission throughout the country of electricity or natural gas.

(3) A licence granted under subsection (1) shall be known as a Transmission Licence.

(4) There shall not be granted more than one licence under subsection (1) of this section in respect of electricity or natural gas at any particular time in the country.

(5) The public utility granted a Transmission licence under subsection (1) for transmission of electricity or natural gas shall be known as the Electricity Transmission Utility or the Gas Transmission Utility respectively (hereafter referred to in this Act as "the Transmission Utility").

Section 24—Conditions for Transmission Licence.

(1) A Transmission Licence shall be subject to such conditions as the Commission shall determine and shall include conditions^{3/4}

(a) for the safe, reliable, economic dispatch and operation of the national interconnected systems for the transmission of electricity and natural gas without discrimination to any wholesale supplier of electricity or natural gas licensed under this Act; and

(b) that tariffs to be charged by the licensee for its services shall be subject to the approval of the Public Utilities Regulatory Commission.

(2) A Transmission Utility shall within 6 months of being granted a Transmission Licence establish and make available to the public at its offices ^{3/4}

(a) the procedure for obtaining and terminating transmission and interconnection services for electricity or natural gas;

(b) the method of response to request for its services; and

(c) maps and diagrams of its electricity or natural gas transmission facilities in the country;

(3) A Transmission Utility shall provide in respect of its capital expenditure programme such information as the Commission may request.

Section 25—Wholesale Supply Licence for Electricity and Natural Gas.

(1) The Commission may on an application by a public utility in such form as the Commission shall determine grant the public utility a wholesale supply licence to operate facilities and installations for the wholesale supply of electricity or natural gas.

(2) A public utility licensed under subsection (1) shall be authorised by the licence to produce electricity or natural gas for supply to^{3/4}

(a) distribution companies; and

(b) bulk customers.

(3) A wholesale supply licence shall not be granted under this section unless the Commission is satisfied that the grant will promote the safe, reliable and economic operation of the interconnected transmission systems in the country.

(4) A wholesale supply licence may be granted subject to such other conditions as shall be specified in relation to it and shall include^{3/4}

- (a) the location of the wholesale supply facilities or stations;
- (b) the duration of the licence; and
- (c) a condition that charges for its services to distribution companies shall be subject to the approval of the Public Utilities Regulatory Commission.

Section 26—Licence for Distribution and Sale of Electricity and Natural Gas.

(1) The Commission may on an application by a public utility, grant to the public utility a licence to ³/₄

- (a) distribute and sell electricity; or
- (b) distribute and sell natural gas without discrimination in such areas or zones as shall be designated and specified in the licence.

(2) A licence granted under subsection (1) shall be on such conditions as the Commission shall determine and shall include a condition that the rates or charges for its services shall be subject to the approval of the Public Utilities Regulatory Commission.

(3) The Commission shall in granting a licence under subsection (1) take into account—

- (a) the demand and supply of electricity or natural gas in the designated area or zone;
- (b) the capability to interconnect distribution facilities or installations with transmission systems in the designated area or zone; and
- (c) the ability to fulfil the obligation to provide electricity or natural gas within the designated area or zone.

(4) A public utility licensed under subsection (1) to distribute electricity or natural gas shall make available to the public for inspection at its offices diagrams and maps of the electricity or gas facilities authorised by the Commission to be operated in the designated area or zone relevant to its licence.

Section 27—Standards of Performance for Electricity and Natural Gas Public Utilities.

(1) The Commission in consultation with the Public Utilities Regulatory Commission shall by legislative instrument prescribe standards of performance for the supply, distribution and sale of electricity or natural gas to consumers by licensed public utilities.

(2) The standards of performance shall ³/₄

- (a) in respect of electricity include matters relating to ³/₄
 - (i) voltage stability;
 - (ii) maximum number of scheduled and unscheduled outages;
 - (iii) number and duration of load shedding periods; and
 - (iv) metering;
- (b) in respect of natural gas include matters relating to ³/₄
 - (i) gas pressure;

(ii) number of scheduled and unscheduled interruptions in supply;

(iii) gas quality; and

(iv) metering.

(3) Where a licensee fails to meet any required standard of performance, it may in addition to any penalty provided under this Act or any other enactment be required to pay such compensation as the Commission may determine to any person adversely affected as a result of the failure.

(4) The requirement for payment of compensation under this section^{3/4}

(a) does not limit the right to any other remedy at law which may available to the complainant; and

(b) does not preclude the Commission from taking any other measure that the Commission has a right to impose in respect of the act or omission that constitutes the failure.

Section 28—Rules of Practice for Electricity and Natural Gas Public Utilities Licensed under this Act.

The Commission shall by legislative instrument prescribe technical and operational rules of practice for electricity and natural gas public utilities licensed under this Act and shall apply and enforce the provisions uniformly throughout the country.

Section 29—Electricity and Natural Gas Technical Committee.

(1) Without prejudice to section 9 of this Act there is hereby established technical committee to be known as the Electricity and Natural Gas Technical Committee (hereafter referred to as "the Technical Committee").

(2) The Technical Committee shall oversee the development, implementation and monitoring of the rules provided for under section 28.

(3) The Technical Committee shall be composed of such members as the Commission shall determine.

(4) The Technical Committee shall have sub-committees with responsibility for electricity and gas respectively.

Section 30—Exemption.

The Volta River Authority established under the Volta River Act, 1961 (Act 46) is exempted from the requirement for licence to produce and supply wholesale electricity from the hydropower installations on the Volta River Basin.

PART IV—SPECIAL PROVISIONS RELATING TO PETROLEUM PRODUCTS

Section 31—Refinery Licence.

(1) The Commission may grant to an applicant a licence to operate a refinery for the supply of petroleum products.

(2) A licence granted under subsection (1) shall authorise the licensee to convert crude oil into petroleum products for sale without discrimination to^{3/4}

- (a) bulk customers of petroleum products; and
- (b) persons licensed under this Act to market petroleum products.

Section 32—Strategic Storage Depots for Petroleum Products.

There shall be designated by the government such network of strategic storage depots for petroleum products as the government may determine.

Section 33—Licence for Operation of Strategic Storage Depots for Petroleum Products.

(1) The Commission may on application grant a licence authorising the applicant to operate throughout the country the network of strategic storage depots for the storage and trans-shipment of petroleum products.

(2) A licence granted under subsection (1) shall authorise the licensee to provide services for storage and trans-shipment of petroleum products to bulk consumers and persons licensed under this Act to market petroleum products.

(3) There shall be granted only one licence for the operation of the strategic storage depots for the storage and trans-shipment of petroleum products at any particular time in the country.

(4) A person granted a licence under this section shall be known as the operator of the strategic storage depots for petroleum products.

Section 34—Conditions for Licence as Operator of the Strategic Depots for Petroleum Products.

(1) A licence granted under section 33 shall be subject to such other conditions as shall be specified in the licence.

(2) Without prejudice to subsection (1) of this section the following conditions shall be included in a licence granted under sections 31 and 33 of this Act ^{3/4}

- (a) an obligation to provide services on request for the storage and trans-shipment of petroleum products to bulk customers and persons licensed under sections 35 and 36 on payment of the relevant charges without discrimination; and
- (b) the approval of charges for its services by the Public Utilities Regulatory Commission.

Section 35—Bulk Transportation of Petroleum Products.

(1) The Commission may on an application grant to the applicant a licence operate as a bulk transporter of petroleum products—

- (a) through pipeline systems;
- (b) by barges;
- (c) by rail tanker wagons;
- (d) by road vehicle; or

(e) by any other means the Commission may determine.

(2) A licence under subsection (1) shall be subject to such conditions as the Commission shall determine and shall include a condition that $\frac{3}{4}$

(a) the licensee enters into an agreement to provide services to its customers without discrimination; and

(b) the charges for the bulk transportation of petroleum products under subsection (1) (a), (b) and (c) shall be subject to the approval of the Public Utilities Regulatory Commission.

Section 36—Petroleum Products Marketing Licence.

(1) The Commission may subject to such conditions as shall be specified in the licence grant a licence upon application to the applicant authorising him to procure and sell petroleum products.

(2) A licence granted under subsection (1) shall authorise the licensee to procure and sell petroleum products to—

(a) bulk consumers; and

(b) to the general public through retail stations or reseller outlets.

Section 37—Construction of Petrol and Gas Depot.

No person shall construct or operate^{3/4}

(a) a petroleum products retail station;

(b) a petroleum products storage depot;

(c) a liquified petroleum gas depot; or

(d) a petroleum depot without the prior written authorisation of the Commission.

Section 38—Rules of Practice for Petroleum Products Public Utilities.

The Commission shall by legislative instrument prescribe rules of technical and operational practice for persons licensed under this Act to engage in refining, storage, bulk transportation, marketing and sale of petroleum products.

Section 39—Display of Prices on Dispensing Units.

No person shall sell or display for sale any petroleum product on a dispensing unit or flow meter unless the price of the petroleum product is indicated in cedis and pesewas.

Section 40—Prohibition to Sell Petroleum Products unless Authorised.

(1) No person, other than a person authorised under this Act shall^{3/4}

(a) sell or offer for sale any petroleum products; or

(b) be in possession of any petroleum products in quantities unreasonably in excess of his immediate requirement; or

(c) receive any petroleum products for sale.

(2) Subsection (1) does not apply to petty trading in kerosine.

PART V—ENERGY FUND

Section 41—Establishment of Energy Fund.

(1) There is established by this Act a fund to be known as the Energy Fund referred to in this Act as "the Fund"

(2) The sources of money for the Fund shall be $\frac{3}{4}$

(a) such proportion of government levy on petroleum products, electricity and natural gas as may be determined by the Cabinet and approved by Parliament;

(b) money that accrues to the Commission in the performance of its functions; and

(c) grants.

Section 42—Objectives of the Fund.

Monies of the Fund shall be applied as follows $\frac{3}{4}$

(a) promotion of energy efficiency and productive uses of electricity, natural gas and petroleum products;

(b) promotion of projects for the development and utilisation of renewable energy resources, including solar energy;

(c) human resource development in the energy sector; and

(ca) promotion of local content and local participation in the energy sector" and [As inserted by the Energy Commission (Amendment) Act, 2016 (Act 933), s. 2 (a)]

(d) such other related purposes and expenses as may be determined by the Commission. [As substituted by the Energy Commission (Amendment) Act, 2016 (Act 933), s. 2(b)]

Section 43—Management of the Fund.

(1) The Fund shall be managed and administered by the Commission which shall for this purpose include the Controller and Accountant-General or his representative.

(2) All monies for the Fund shall be paid into a bank account for the purpose opened by the Commission with the approval of the Controller and Accountant-General.

(3) The provisions under sections 49 and 50 of this Act on accounts and audit and annual report shall apply to the Fund.

Section 44—Functions of the Commission in Respect of the Fund.

(1) The Commission shall for the purpose of managing the Fund $\frac{3}{4}$

(a) formulate policies to generate money for the Fund;

(b) determine the allocations to be made towards the objectives of the Fund; and

(c) determine annual targets of the Fund.

(2) The Commission may invest such part of the Fund as it considers appropriate in such manner as may be approved by the Minister in consultation with the Minister for Finance.

(3) All payments issued from the Fund shall be signed by the Chairman and the Executive Secretary of the Commission or the Chairman and one other member of the Commission.

PART VI—ADMINISTRATION, FINANCIAL AND MISCELLANEOUS PROVISIONS

Section 45—Executive Secretary.

(1) The Commission shall have an Executive Secretary who shall be appointed by the President acting in accordance with the advice of the Commission given in consultation with the Public Services Commission.

(2) The Executive Secretary shall hold office upon such terms and conditions as shall be specified in his letter of appointment.

(3) Subject to such general directives as the Commission may give, the Executive Secretary shall be responsible for the day-to-day administration of the Commission and ensure the implementation of the decisions of the Commission.

(4) The Executive Secretary shall be responsible for the organisation of the Commission.

(5) The Executive Secretary may delegate the day-to-day administration of the Commission to any officer but the Executive Secretary shall not be relieved from ultimate responsibility for the discharge of any delegated function.

Section 46—Other Staff of Commission.

(1) The President may acting in accordance with the advice of the Commission given in consultation with the Public Services Commission appoint such officers and employees as may be necessary for the effective implementation of the functions of the Commission.

(2) The President may delegate the powers of appointment of public officers in accordance with article 195 (2) of the Constitution.

(3) Other public officers may be transferred or seconded to the Commission.

Section 47—Engagement of Consultants.

The Commission may engage the services of such consultants and advisers as it considers necessary for the effective discharge of the functions of the Commission.

Section 48—Expenses of the Commission.

Parliament shall annually provide to the Commission such monies as may be necessary for the efficient performance of the functions of the Commission.

Section 49—Accounts and Audit.

(1) The Commission shall keep books of accounts and proper records in relation to them, and the account books and records of the Commission shall be in a form approved by the Auditor-General.

(2) The books of accounts of the Commission shall, within three months after the end of each financial year, be audited by the Auditor-General or by an auditor authorised by him.

(3) The financial year of the Commission shall be the same as the financial year of the Government.

Section 50—Annual Report.

(1) The Chairman of the Commission shall, as soon as possible after the end of each financial year but within six months after the end of the year, submit to the Minister an annual report dealing generally with the activities and the operations of the Commission in respect of the preceding year which shall include ³/₄

(a) a copy of the audited accounts of the Commission together with the Auditor-General's report on it; and

(b) such other information as the Minister may require.

(2) The Minister shall within two months after receiving the annual report of the Commission submit the report to Parliament with such statement as he may consider necessary.

(3) The Commission shall also submit to the Minister such other reports on its activities as the Minister may in writing request.

Section 51—Register of Licences.

(1) The Commissioner shall keep a register in such form as the Commission may determine and shall record in it ³/₄

(a) licences issued under this Act and the relevant terms and conditions;

(b) suspensions and cancellation of licences; and

(c) such other information relating to public utilities and persons licensed under this Act to sell petroleum products as the Commission considers appropriate.

(2) Where it appears to the Commission that the entry of any condition in the register would be contrary to the public interest or the commercial interest of any person, the Commission may decide not to enter that condition in the register.

(3) The register shall be open for public inspection during such hours and subject to the payment of such fee as may be determined by the Commission.

(4) Any person may, on payment of a fee determined by the Commission, request the Commission to supply him an extract from any part of the register.

Section 52—Inspectorate.

(1) For the purpose of giving effect to this Act the Commission shall establish an Inspectorate division of the Commission.

(2) The Commission may in writing appoint a Chief Inspector and other inspectors to carry out such functions as the Commission may determine for the purpose of enforcing this Act and regulations made under this Act.

(3) An inspector appointed under this Act may at all reasonable times enter any premises which he reasonably suspects to be used for a purpose to which this Act applies to inspect the premises or generally to carry out any functions imposed upon him under this Act or to ensure that the provisions of this Act are complied with.

Section 53—Relationship with Other Authorities.

Government departments and agencies and all public authorities shall co-operate fully with the Commission in the performance of its functions under this Act.

Section 54—Offences and Penalties.

(1) Any person who^¾

(a) installs or operates any facility for the transmission, wholesale supply, distribution or sale of electricity or natural gas without a licence from the Commission as provided for under this Act; or

(b) installs or operates any facility for the refining, storage, bulk transportation, marketing or sale of petroleum products, without a licence granted by the Commission as provided for under this Act; or

(c) unlawfully destroys or damages any equipment, installations or facilities for the supply, transmission, distribution or sale of electricity or natural gas; or

(d) unlawfully destroys or damages any equipment, installations or facilities for the refining, storage, bulk transportation, marketing or sale of petroleum products; or

(e) fails to comply with any standard of performance prescribed by the Commission,

commits an offence and is liable on summary conviction to a fine of not less than €5 million or to imprisonment for a term not exceeding one year or to both on first conviction; and to a fine of not less than €10 million or to imprisonment not exceeding two years or to both on subsequent conviction.

(2) Where an offence created under this Act or any regulation made under it is committed by a body corporate or by a member of a partnership or other firm, every director or officer of that body corporate or any member of the partnership or other person concerned with the management of the firm shall also be guilty of the offence and shall on conviction, be liable to a fine of not more than €10 million for the offence and shall in addition be liable to payment of compensation for any damage resulting from the breach unless the accused proves to the satisfaction of the court that ^¾

(a) he exercised due diligence to secure compliance with the provisions of this Act; and

(b) the offence was committed without his knowledge, consent or connivance.

(3) Where an offence is committed under subsection (1)(a) or (b) of this section, the court which convicts the offender may order the forfeiture of any equipment, installation or facilities used in the commission of the offence to the State.

Section 55—Ministerial Responsibility.

The Minister responsible for Energy has ministerial responsibility for the Commission.

Section 56—Regulations.

(1) The Minister on the advice of the Commission may by legislative instrument make regulations—

(a) in respect of electricity and natural gas—

(i) on the conservation of electricity or natural gas;

(ii) for expansion, planning, safety criteria, reliability and cost effectiveness of the interconnected transmission systems;

(iii) on minimum standards and procedures for construction, operation and maintenance of facilities and installations;

(iv) for the protection of mains, pipes, electrical or natural gas installations and services;

(v) for the protection of life and property and general safety of the public in respect of natural gas and electricity services;

(vi) for the operation of the electricity transmission utility; and

(vii) for the operation of the gas transmission utility;

(viii) for the promotion of local content and local participation to support national development. [As inserted by the Energy Commission (Amendment) Act, 2016 (Act 933), s. 3]

(b) in respect of petroleum products—

(i) for controlling the importation, exportation, landing, loading, unloading and transportation of petroleum products;

(ii) for the storage, handling and sale of petroleum products and providing for licensing of places in which petroleum products are stored;

(iii) for regulating the handling of petroleum products in the fuelling of aircraft;

(iv) for preserving the quality and purity of petroleum products; and

(c) generally ³/₄

(i) prescribing fire precautions and other safety measures to be observed;

(ii) on minimum reserve margins to satisfy demand; and

(iii) for the implementation of the provisions of this Act.

(2) Notwithstanding any provision in the Statutory Instrument Act, 1959 (No. 52) to the contrary, legislative instrument made under subsection (1) may impose a penalty of a fine not exceeding ₡20 million or imprisonment for a term not exceeding 5 years or both for any offence provided in the instrument.

Section 57—Interpretation.

In this Act unless the context otherwise requires³/₄

"bulk customer" means a customer that purchases or receives electric power, natural gas or petroleum products of such amount or level as the Commissioner may specify;

"Commission" means the Energy Commission established under section 1 of the Act;

"consumer" means a person or his successor in interest that purchases or receives electric power or gas for consumption and not for delivery or resale to others, including a person that owns or occupies premises where electric power or gas is supplied;

"crude oil" means hydrocarbons which are solid or liquid under normal atmospheric conditions and includes condensates and distillates obtained from natural gas;

"distribution company" means a person licensed under this Act to distribute and sell electricity or natural gas without discrimination to consumers in an area or zone designated by the Commission;

"energy resources" include hydropower, solar, biomass, wind, geothermal hydrocarbon;

"hydrocarbon fuels" means natural gas or any petroleum product derived from crude oil by any refining treatment process;

"gas" means natural gas;

"interconnection service" means the safe reliable connection of one person's electrical or natural gas facilities to another person's electrical or natural gas facilities with due consideration for (1) any facilities necessary to accommodate the connection, (2) the coordinated operation of the connected systems, and (3) the economic impact of such connection on the connected systems;

"local content" means the percentage of utilisation of Ghanaian human and material resources, services and businesses, in monetary terms, for the systematic development of national capacity and capabilities for the enhancement of the Ghanaian economy; [As inserted by the Energy Commission (Amendment) Act, 2016 (Act 933), s. 4]

"local participation" means the percentage of local equity ownership in a sector or industry; [As inserted by the Energy Commission (Amendment) Act, 2016 (Act 933), s. 4]

"lubricants" means liquid lubricating oils and greases produced from petroleum and categorised as mineral and/or synthetic oil for engineering applications but does not include petroleum jelly or wax;

"Minister" means the Minister responsible for Energy;

"natural gas" means all hydrocarbon fuels which are gaseous under normal atmospheric conditions and includes wet gas, dry gas and residue after the extraction of liquid hydrocarbon fuels from wet gas;

"petroleum" means crude oil or natural gas or a combination of both;

"petroleum products" means liquid or gaseous fuel and lubricant derived from crude oil;

"public utility" means a person licensed under this Act to provide transmission and interconnection services for electricity or natural gas without discrimination throughout the

country or a person licensed under this Act to distribute and sell electricity or natural gas without discrimination to consumers in an area or zone designated by the Commission;

"transmission service" means the safe and reliable operation of high voltage electrical circuits, transformers, and sub-stations or high pressure gas pipeline and compression systems to ensure the cost effective dispatch and movement of electricity or natural gas from the facilities of wholesale suppliers to bulk customers or distribution companies;

"wholesale supplier" means a person licensed under this Act to install and operate facilities to procure or produce for sale to bulk customers or to a distribution company for distribution and sale to consumers.

Section 58—Dissolution of National Energy Board and Vesting of Assets.

(1) The National Energy Board established under the National Energy Board Law, 1983 (P.N.D.C.L. 62) is hereby dissolved.

(2) The assets, rights, obligations and liabilities of the National Energy Board are hereby transferred to and vested in the Commission.

Section 59—Repeal, Transitional and Savings Provisions.

(1) The following enactments are hereby repealed^{3/4}

Petroleum Decree, 1973 (N.R.C.D. 187);

Petroleum Decree, 1973 (Amendment) Act, 1980 (Act 420);

Petroleum Decree (Amendment) (No. 2) Act, 1980 (Act 427)

National Energy Board Law, 1983 (P.N.D.C.L. 62);

Excess Energy Consumption (Surcharges) Law, 1984 (P.N.D.C.L. 87);

National Energy Board (Amendment) Law, 1987 (P.N.D.C.L. 190);

Electricity Corporation of Ghana Decree, 1967 (N.L .C.D. 125);

Electricity Corporation of Ghana (Amendment) Law, 1987 (P.N.D.C.L. 172); and

Electricity Corporation of Ghana (Amendment) law, 1991 (P.N.D.C.L. 250).

(2) Notwithstanding the repeal of the enactments specified in subsection (1) the Petroleum Regulations, 1959 (L.N. 206), the Safety (Petroleum Rules), 1959 (L.N. 207) and the Electricity Corporation of Ghana (Electric Power) Regulations, 1988 (L.I. 1366) shall continue in force until revoked or otherwise dealt with under this Act.

(3) Notwithstanding the repeal of the National Energy Board Law, 1983 (P.N.D.C.L. 62) any appointment made under it and valid on the coming into force of this Act shall remain valid as if made under the corresponding provision of this Act until terminated or otherwise dealt with under this Act.

(4) Any person who on the date of the coming into force of this Act holds a valid licence for the supply of electricity, natural gas or petroleum products or by law operates any service for the provision of electricity, natural gas or petroleum products shall, where he intends to

continue to operate the service, apply within 6 months of the coming into force of this Act for the appropriate licence under this Act; and shall unless authorised under this Act cease the operations after the expiry of the 6 months period.

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