

Consumer Council of Fiji

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27 February 2017

**The Chairperson
Standing Committee on Justice, Law and Human Rights
P O Box 2352
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SUVA**

Dear Chair

RE: ELECTRICITY BILL 2017

Warm Greetings from the Consumer Council of Fiji

Please find attached the Council's submission on the Electricity Bill 2017.

We sincerely hope the issues raised and the recommendations in the submission will be given due consideration.

We would be happy to provide further clarifications should these be required.

Yours sincerely,



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Ms Premila Kumar
Chief Executive Officer



A Submission to the

Standing Committee on Justice, Law and

Human Rights

Of the Parliament of the Republic of Fiji

On the Electricity Bill 2017

27 February 2017

1.0 Introduction

1.1 Role of Consumer Council of Fiji

The Consumer Council of Fiji (hereinafter referred to as ‘the Council’ or ‘CCF’) has statutory obligations under the Consumer Council of Fiji Act (Cap 235) to “to do all such acts and things which it may consider necessary or expedient to ensure that the interests of consumers of goods and services are promoted and protected.” The Council is also obliged to advise and make recommendations to the Minister responsible for consumer affairs in Fiji or any other Minister on issues affecting the interests of consumers. This work extends to providing advice and making submissions to regulatory agencies, policymaking bodies, private sector or industry groups and international agencies.

The Council is the statutory representative of consumers in Fiji, the largest socio-economic group whose economic well-being is an important indicator of economic stability and development. The Council has the legal duty to ensure that consumers are not disadvantaged by unfair trade practices and policies that limit their basic consumer rights to choice, disclosure of information and fairness. Thus, CCF submission lies within the ambit of this legal duty.

The Council sincerely hopes that the issues raised in this submission are given due consideration in the interest of consumer justice.

This submission is in two parts. Part 1 highlights the current problems consumers face with the Fiji Electricity Authority (FEA) and Part 2 highlights the strengths and weaknesses of the Bill to address the issues.

PART 1: Current Issues faced by consumers when accessing electricity from Fiji Electricity Authority (FEA)

2.0 Electricity – Essential Service

Electricity is an essential energy source that plays a critical role in growth and development of Fiji. It is vital not only to consumers but to the retail industry, service providers, Government, manufacturing and industrial sector, hospitality industry, communication and entertainment. Access to electricity is also linked to the right to life, rather than a privilege for those who can pay for it.

United Nations Guidelines for Consumer Protection promotes strengthening of national policies to improve the supply, distribution and quality of affordable energy to consumers according to their economic circumstances.

The Universal Declaration of Human Rights recognizes the right for every individual to access electricity as part of the right to adequate housing.

Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) explicitly recognizes rural women’s rights to electricity as part of the right to adequate housing.

The Council wishes to stress that for consumers in Fiji, this essential utility service is virtually provided by a single commercial entity – FEA, which holds monopoly status. The provision of electricity in Fiji warrants appropriate policies that protect consumers from the monopolistic service provider who is a producer, transmitter and regulator. This makes FEA the judge, jury and the executioner.

2.1 Government Policy on Energy – Electricity

The Government’s vision for Fiji’s energy sector, as set out in the Roadmap for Democracy and Sustainable Socio-Economic Development 2009-2014, is for a resource efficient, cost effective, and environmentally sustainable energy sector.

The objectives of the Fiji National Energy Policy 2013-2020 are to provide all Fijians with access to affordable and reliable modern energy services; to establish environmentally sound and sustainable systems for energy production, procurement, transportation, distribution and end-use; and to increase the efficient use of energy and the use of indigenous energy sources to reduce the financial burden of energy imports on Fiji.

Furthermore, the government has acknowledged that electricity production is being constrained by *current regulatory arrangements*. In other words, a major impediment to the provision of efficient, cost-effective and affordable electricity is FEA’s dual role of both regulator and provider of one product in one single market. FEA has been self-regulated for many years with respect to all non-tariff aspects of the electricity system, including issuing licences, developing technical rules, and defining incentives for third party generation.

In 2016 National budget speech, the Minister responsible for Public Enterprises said “*separating FEA’s regulatory and commercial functions would promote competition and lead to efficient and affordable electricity services to the general public.*”

2.2 FEA’s Powers and the need for a review of the Electricity Act

FEA as a monopoly has an unfair advantage of dictating the environment in which it conducts its business which goes unchecked. The billing system used is also dictated by Electricity Act which allows FEA to practice *estimated reading* which is inaccurate and unfair. While price regulation comes under the jurisdiction of FCC, FEA still reserves other powers under the outdated legislation. FEA’s monopolistic and legislation-sanctioned power needs to be reviewed and removed to prevent continuing abuse of consumers’ rights.

3.0 Consumer Concerns

3.1 Complaints

Consumer complaints against the FEA consistently remains in the top ten recurring complaints lodged at the Consumer Council since 2008. Gradually over the years, FEA complaints have decreased not because FEA’s service has improved but consumers have no desire to lodge complaints because FEA is the regulator and the current Electricity Act is written only from the producer perspective disregarding consumer rights and interests.

(formally lodged at the Consumer Council of Fiji)		
Year	Number of Complaints	Monetary Value
2012	95	\$ 47,776.76
2013	70	\$ 45,729.68
2014	46	\$ 10,918.02
2015	29	\$ 15,733.45
2016 ¹	78	\$ 169,867.80
2017	4	\$ 172.72
Total	300	\$ 289,575.92

Some of the most recurring complaints are:

- Meter readers not making honest attempt to do normal reading, claiming inaccessibility to meters;
- Faulty meters (*refer to Annex 2*);
- Unusually high estimated bills against normal readings;
- Billing errors – e.g. wrong tariff line used i.e. domestic consumer charged commercial rate;
- Power surges, blackouts resulting in damage to household appliances with no avenue for compensation;
- Upward revision of security deposit without giving lead time or using step wise increase;
- Disconnections without proper notice;
- Customer being charged the full reconnection fee despite them paying their bill on time;
- Non-issuance of bills and bulk billing (*refer to Annex 2*).

3.2 FEA’s Unfair Practices

Some unfair practices undertaken by FEA (based on complaints) are quite perplexing and inexplicable because FEA is left to practice without regulatory oversight.

Application of the Government consumer subsidy - The Government provided 17.64 cents per unit subsidy for consumption equal to or less than 75kwh per month in 2010. This was to encourage energy conservation. The subsidy was then increased to 85kwh. This resulted in complaints from consumers as the subsidy did not necessarily benefit the poor with big families, as most live in households with higher consumption even for basic lighting and other essentials. The subsidy mainly targeted low consumption rather than assisting poor consumers with big families or incentivizing consumers that practiced energy conservation.

From January 2016, a new scheme has come into effect which provides 48% subsidy on an household’s monthly electricity bill provided the household consumes less than or equal to 95kwh per month and the combined household income is less than \$30,000 per annum.

¹ The Consumer Council’s National Consumer Helpline, since its establishment in July 2016 to date, has received a total of 22 complaints with a monetary value of \$622.51 in relation to electricity issues.

A review of the subsidy is warranted to ensure that it captures those consumers who are in real need as many households with large number of members will surely consume more than 95kwh as families in Fiji also need to enjoy a bit of luxury such as, watching television or using electrical fans in hot weather situations, etc.

Also the issue is how FEA is interpreting a month needs to be considered. There are consumers who have been raising their concern that despite their electricity bill showing 95kWh the subsidy is not passed on.

FEA applies this subsidy based on the average daily usage while the registered consumers understand that if the bill shows 95kWh, they qualify for the subsidy. Unfortunately, FEA does not bill consumers exactly after a month. The billing period can be for 28 to 34 days, therefore FEA uses average daily usage. For FEA, a month is 30.42 days (**1 month = 365 / 12 = 30.42 days**) and not number of days in a calendar month.

If a registered consumer's average daily usage is same or less than 3.12kWh then subsidy is applied and the tariff rate is 17.20 cents. Those consumers whose average daily usage is more than 3.12kWh (i.e. 3.13kWh) then he/she although registered with FEA will not qualify for the subsidy. In that case the consumers are expected to pay the normal tariff rate of 33.10 cents

Improper Disconnection & Estimated reading – The Council has also received complaints from consumers where their meters have been disconnected although the bills were paid on time. FEA at all times should give a written notice to customers before disconnecting. Some consumers were in shock when they received hefty FEA bills after several months of estimated readings putting consumers into financial hardship with constant threat of disconnection if the bill was not paid.

There have also been complaints where it has been proven that meter readers were dishonest and did not conduct normal reading with the excuse that the meters were not accessible. The Council also dealt with a case where the meter reader could not read the meter and a digit was left which resulted in wrong billing (See Annex 3). Ultimately, a very hefty bill was issued. FEA maintained its stance that if the consumer has used the electricity, then he had to pay for it.

Determination of Estimated Billing –Neither the Electricity Act nor the Electricity Bill 2017 states how such calculations are done. The criteria of when FEA can do estimated readings and billings is also highly unclear and undisclosed to consumers. Consumers are left in a difficult situation due to FEA lacking transparency in their billing system.

Liability of FEA staff / Staff Negligence – the Council has been inundated with complaints regarding staff negligence in overcharging consumers, poor customer service, slow turnaround time to fix electrical faults, lack of efficient updating of the billing system, etc. Consumer bears all the losses while FEA takes no responsibility for its staff (*refer to Annex 3*).

- Overcharged bills –Those consumers who were careful, picked up the errors and notified the Council. They were provided with redress. However, what happens to those consumers who do not have the time to check their bills and pay as per the bill? Some consumers trust FEA with the billing amounts and do not find it necessary to query about their bills versus the usage of electricity (*refer to Annex 1 (a)*).

- Inefficient billing system – FEA’s billing system needs to be updated in real time. Staff who are responsible for updating the system are seen to be inefficient and are not doing their work effectively. Yet, when consumers are overcharged, staff are not willing to take liability for the error made on FEA’s part (*refer to Annex I (b)*).
- Poor customer service – customers are often frustrated with the poor service provided by FEA. Customers are made to bear the costs for their run around and since FEA is the sole supplier of electricity leaves consumers with no choice but to put up with such service provider. Staff need to be trained to provide consumers with correct solutions. During times of power outages, staff do not respond to consumer query about the reason/timeframe of the power outage because the staff themselves do not have any answer to give consumers.
- Slow turnaround time to fix electrical faults – office staff are slow to escalate the electrical faults reported by consumers to FEA technicians to be fixed. Sometimes it takes days and weeks even months for electrical faults to be fixed.

Compensation – FEA bears no responsibility and liability if the power surge causes damage or losses to consumers’ electrical appliances because there are no laws requiring FEA to compensate consumers for such damages to their home electrical appliances. This is an unjust situation where FEA’s legislation gives it the leeway to estimate and charge a security deposit, but not bound to provide compensation to consumers.

3.3 Partial Divestment of FEA shares

The partial divestment of FEA, which is currently a wholly government-owned statutory body, is preparing the way for other sell-offs. The proposed restructuring and partial sell-off of the FEA was first announced in the 2014 budget, as part of plans for a one-off boost to the public coffers from the sale in some state assets. The government, reaffirmed its intention to proceed with the sales in the 2015 budget. According to the 2015 budget, the government intends to raise a total of F\$507m (around US\$240m) from the asset sales².

The government is seeking secure, long-term partnerships for FEA, which provides electricity for 90% of the population, with a view to helping the utility to achieve its renewable energy goals.

FEA is currently enjoying monopolistic status in the retail, transmission and distribution of electricity in Fiji. FEA also performed regulatory functions of approval of licences and compliance with safety standards. Given the proposed partial divestment, it is considered inappropriate for the company to regulate the electricity industry or to issue electricity related licences³.

² See more: [Economic Intelligence Unit \(EIU\)](#)

³ See more: [Fiji Times Article: 'Bid to divest FEA shares'](#)

3.3.1 The Implications of Partial Divestment of FEA shares on Consumers

Two of the objectives of the divestment program for partial divestment of FEA are: "*Ensure more reliable and affordable supply of electricity,*" and "*increase participation of ordinary Fijians in the development of the capital market*"⁴.

"Divestment" shows that partial privatisation of government owned utilities in countries like New Zealand, the US and Australia is the first step towards full privatisation, usually involving take-over by foreign companies, not local investors. Overseas experience shows that the price of energy to consumers increases and does not reduce even when the supply of available electricity has increased. This happens because the new entity's sole objective is to increase profits, particularly when debts accruing from the takeover have to be paid.

The public needs to ask 'what will be the implications for electricity consumers to have a "natural monopoly" like FEA partly in private hands?' and 'what are the implications for taxpayers in the long run, if risk events occur such as prolonged droughts or oil price rises?'⁵ FEA was required to provide electricity not just urban areas (easy and cost effective) but also to rural and distant areas with few consumers.

Privatizing shares in a natural monopoly may hurt electricity consumers (residential and commercial) through higher electricity prices to generate sufficient profits for private investors. Taxpayers would still need to fork out subsidies if FEA is required by government to continue to satisfy social or development objectives.

In Fiji's case so long as the Government has majority shares; FCC sets the tariff and the independent Regulator acts independently of all shareholders to balance both consumer and investor interests, then there will be fairness and trust.

3.4 FEA's Profitability

In the seven-year period from 2008 to 2014 FEA's profitability has improved vastly. Between 2008 and 2012 the company's profit after tax had increased by 1200%. FEA's good performance from 2010 to 2013 led to bonus payments to its employees. In 2011, a total of \$1.6million was allocated for bonus payments, \$880,000 in 2013, and \$1.3million in 2014 and the latest was \$1.2million in 2015. The low \$2.4m profit in 2009 was largely due to foreign exchange losses after the April 2009 devaluation of the Fiji Dollar.

FEA is enjoying Government tax benefits and overall pro-business policies. The \$51.9m profit reported in 2011 included a large gain from Government's reduction of the corporate tax rate from 28% in 2011 to 20% in 2012. In 2012, FEA's positive bottom line was assisted by an income tax benefit of \$13.5m due to its investment in the Nadarivatu Hydro Project.

⁴ See more: [Fiji Times Article: 'To divest or not'](#)

⁵ See more: [Privatizing FEA: If it ain't broke, don't fix it](#)

In 2015, the increase in profit compared to 2014 was due to good management of the Monasavu and Nadarivatu hydro schemes, the low fuel price recorded in 2015 and cost control measures put in place by Management. The thermal fuel cost decreased substantially by \$39M to \$141M in 2015 when compared to \$180M recorded in 2014.

Year	Profit Earned (\$)
2008	2.5m
2009	2.4m
2010	8.4m
2011	51.9m
2012	75.3m
2013	32.5m
2014	972,000
2015	39.7m

3.5 Current tariffs and scope for reduction

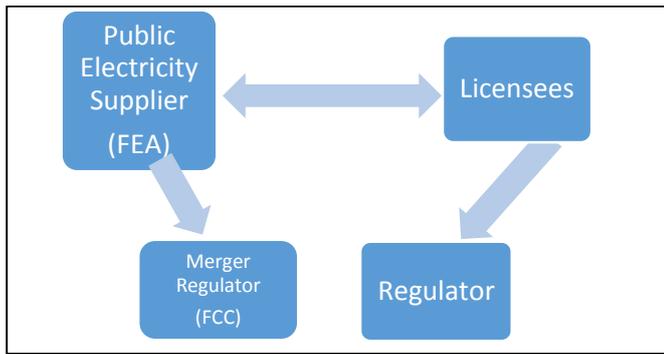
Many rural areas are not connected to FEA’s electricity grid and are forced to rely on intermittent and unreliable stand-alone diesel generators. In 2007, the Department of Energy began installing solar home systems in rural areas, but the program’s sustainability is being comprised by maintenance issues.

The FCC’s last determination on electricity tariff rates in December 2012 reduced the consumer/domestic tariff by approximately 5% from 34.84kwh to 33.10kwh. A major rationale for that determination was the increase in FEA’s renewable energy mix to 75.9% after the commissioning of the 40MW Nadarivatu Hydro scheme. The Council notes that FEA continues to undertake expansion and improvement of its hydro power generating scheme. For example: Installed generation capacity is approximately 237MW, comprising 80MW Monasavu Hydro Scheme and 40MW Nadarivatu Hydro Scheme in Viti Levu and about 112MW of diesel capacity in 14 stations on the three main islands. The tariff rate including subsidy for lifeline consumers is attached as Annex 4.

PART 2: Highlights the strengths and weaknesses of the Bill to address the issues.

4.0 Electricity Bill 2017

We comprehend that the **purpose** of the Electricity Bill 2017 is to promote the development of the electricity industry by the appointment of an independent regulator to license the generation, transmission and supply of electricity. In this case, the regulator mentioned in the Bill will be appointed by the Minister. Setting tariff rates is the responsibility of FCC who will act as the Merger Regulator (refer to illustration below).



4.1 Strengths in the Electricity Bill 2017

- The Bill is promoting inclusion of multiple stakeholders for the supply of electricity. This will create competition in the level and quality of services offered by each power generating company to consumers.
- The Bill states that FEA will no longer set fees and charges nor will it be a licensor to approve licences for electricians to carry out electrical work in the country. This will create separation of powers.
- *Section 5 (3) and (4)* – which spells out the powers of the Regulator that will ensure that underperforming staff, that includes the Chief Inspector, inspectors and administrative staff are disciplined.
- *Section 6 (2a-d)* – the functions and duties of the Minister and the Regulator stated in sub-section 2a-d will protect consumers in terms of the retail prices charged to tariff customers for electricity supplied once agreed by the Regulator are fixed in accordance with the tariff pricing methodology which may be set by the Regulator from time to time. The provisions also state the promotion of lowest cost solutions for power generation and to require possible generation from renewable sources and the chief inspector or inspectors will register, test, inspect and certify all electrical installations and equipment (including meters) that the Regulator deems necessary.
- *Section 6 (3a-e)* – the Minister or Regulator has the responsibility to protect the interests of consumers of electricity which must (other than in situations of self-supply) be supplied by the Company in respect of the prices charged and other terms of supply, continuity of supply and quality of the electricity supply services provided. The provisions also state that corporatization will promote efficiency, research, development and use of new techniques by or on behalf of persons authorized by a licence to generate, transmit or supply electricity. Also, the public will be protected from dangers arising from the generation, transmission or supply of electricity. Maintenance of machinery will also be a priority to promote health and safety of persons employed in the generation, transmission or supply of electricity as well as the general public that may be passively affected.
- *Section 6 (4), (5) and (6)* – the Minister or the Regulator must take into account the interests of consumers of electricity with limited or restricted incomes, interests of consumers of

electricity in rural areas and interests of disabled persons and persons of pensionable age. By doing so, ALL consumers are aimed to be provided with the supply of electricity.

- *Section 9 (5)* – before granting any licence which might have any detrimental economic impact on the public electricity supplier or on the security of electricity supply or future tariffs to customers, the Minister or the Regulator must fully consider the objectives of this Act, and the Minister’s and the Regulator’s duties.
- *Section 18 (2)* states “A tariff to be applied by a public electricity supplier under subsection (1) must be: (a) so framed as to show the methods by which and the principles on which the charges are to be made and the prices to be charged; and (b) published in such manner as in the opinion of the public electricity supplier will secure adequate publicity for it.” The sub-sections under this provision allow for transparency in the manner in which tariffs will be determined.
- *Section 23 (1) (a)* – any dispute arising between the public electricity supplier and the person requiring the supply of electricity will be referred to the Regulator by either party to be solved.
- *Section 29 (1a-c)* – the Minister will ensure that the supply of electricity is secure, regular and efficient; the public is protected from dangers that may arise from the generation, transmission and supply of electricity; the dangers associated with the use and maintenance of any electric line; and eliminate or reduce the risks of personal injury. The occupational, health and safety plan needs to be implemented at all times to avoid consumers as well as employees of the electricity supplier to come in contact with any such danger.
- *Section 33 (2) (b)* states “in appropriate cases, an abatement in the charges for the supply of electricity will be made in proportion to the reduction made.” Consumers who will receive the reduction in supply of electricity will not be charged for the period in which no or a less quantity of electricity was supplied. However, consumers need to ensure that their electricity bills reflect such abatements.
- *Section 45 (1)* – the timeframe of 6.00am and 6.00pm is reasonable for the inspector to enter the premises of consumers to carry out the necessary duties such as meter readings, installations, etc. This time allows the consumers to be present when the inspector enters their premises.
- *Section 45 (2)* states “An inspector seeking to enter any premises under the powers conferred by subsection (1) must carry, and produce on demand, an official identification card or badge in such form as may be prescribed, and no person is obliged to admit to the person’s premises any person purporting to be an inspector except upon production of such identification card or badge.” This provision prevents unlawful trespass of unwanted persons in consumers’ properties who may claim to be authorized officers/inspectors of the electricity supplier.

- *Section 52 (1-8)* – the sub-sections of the provision regarding the types of offences and the penalties for each type of offence are clearly stated. Offences include persons engaged in meter tampering, dishonest consumption of electricity, licensees supplying electricity without the authorization of the Regulator, etc. are subject to fines and a term of imprisonment.

5.0 Weaknesses in the Electricity Bill 2017

The Consumer Council of Fiji, after a comprehensive review of the “**Electricity Bill 2017**” submits the following concerns:

5.1 Section 8 (2):

- *“An exemption may be granted to (a) a particular person; or (b) persons of a particular class.”*
- **Concern:** This provision does not set the criteria that will determine the class of persons who will be provided the exemption from complying with conditions for licensed supply of electricity set by the Minister.
- **Recommendation:** At least the Regulations must contain a set criteria that will distinguish the types of persons who are exempted and who would not be exempted.

5.2 Section 9 (3):

- *An application for a licence or extension must be made in the prescribed manner and must be accompanied by such fee, if any, as may be prescribed, and within 14 working days after the making of such an application, the applicant must publish a copy of the application in the approved manner.*
- **Concern:** The provision does not make it compulsory for the Regulator to disclose the fees for the application for licence or extension of electricity supply.
- **Recommendation:** The fee charged for an application for a licence or extension must be disclosed to the party paying for such a fee.

5.3 Section 9 (8):

- *“As soon as practicable after granting a licence, the Minister must send a copy of the licence to the Regulator.”*
- **Concern:** The section does not separate the functions of the Regulator and the Minister.
- **Recommendation:** The Regulator should be provided with absolute responsibility of licensing, registration and complaints handling/dispute resolution. This will ensure that the Minister is independent and transparent in implementing regulations and policies with respect to electricity supply, regulation of suppliers and licensees, dispute resolution, tariffs, duties and responsibilities of the Regulator and Merger Regulator, etc.

5.4 Section 9 (9):

- *“As soon as practicable after granting any licence or extension falling within subsection (8)(a), (b) or (c), the Regulator must send a copy of the licence or extension to any person mentioned in that provision.”*
- **Concern:** This provision fails to provide a timeframe within which the Regulator must send a copy of the licence to the Licensee.
- **Recommendation:** The provision should contain a clear timeline within which the licence must be sent to the licensee.

5.5 Section 18 (3):

- *“A tariff to be applied by a public electricity supplier under subsection (1) may include:
a) a standing charge in addition to the charge for the actual electricity supplied;
b) a charge in respect of the availability of a supply of electricity; and
c) rent or other charges in respect of any electricity meter or electrical plant provided by the public electricity supplier,
and the charge in paragraph (b) may vary according to the extent to which the supply is taken up.”*
- **Concern:** The tariff to be applied by a public electricity supplier is unclear as to how this will be calculated. Consumers will not be able to comprehend how the charges are calculated and on what basis are the charges imposed on them.
- **Recommendation:** The provision, if not the Regulation, should contain the method of calculation of the charges that will be imposed on the consumers.

5.6 Section 19 (1):

- *“Where any electric line or electrical plant is provided by a public electricity supplier under section 15(1), the public electricity supplier may require any expenses reasonably incurred in providing it to be defrayed by the person requiring the supply of electricity to such extent as is reasonable in all the circumstances.”*
- **Concern:** The provision does not make a mention that the public electricity supplier can charge the person requiring the supply for only the expenses incurred by the supplier. It does not restrict the supplier to charge anything more than the expenses incurred for the supply of electricity.
- **Recommendation:** The legislation should allow the supplier to charge for the actual expenses incurred and nothing extra. This will avoid any confusion the consumer might have on the charges imposed on him.

5.7 Section 20 (1):

- *“Subject to the following provisions of this section, a public electricity supplier may require any person who requires a supply of electricity under section 15(1) to give the public electricity supplier reasonable security for the payment to the public electricity supplier of all money which may become due to the public electricity supplier —
a) in respect of the supply; or*

b) where any electric line or electrical plant is provided under section 15(1) in respect of the provision of the electric line or electrical plant, and if that person fails to give such security, the public electricity supplier may if it thinks fit refuse to give the supply, or to provide the line or plant, for so long as the failure continues.”

- **Concern:** The term “reasonable security” is not clearly defined in the legislation. This will cause confusion amongst the consumers as to what is reasonable and what is not.
- **Recommendation:** The provision should be amended to state the exact amount or how the security deposit amount will be calculated. This will allow consumers to make informed decisions.

5.8 Section 20 (2):

- *“Where any person has not given such security as is mentioned in subsection (1), or the security given by any person has become invalid or insufficient—*
 - a) the public electricity supplier may by notice require that person, within 7 working days after the service of the notice, to give the public electricity supplier reasonable security for the payment of all money which may become due to it in respect of the supply...”*
- **Concern:** The 7 working days to pay the security deposit may not be adequate for ordinary consumers. This is in consideration of the fact that many a times the amount of security deposit will be exorbitant and consumers would not be able to secure that kind of money within 7 days.
- **Recommendation:** The timeframe should be extended to at least 21 working days to allow consumers to arrange payment of the security deposit to the public electricity supplier.

5.9 Section 21:

- *A public electricity supplier may require any person who requires a supply of electricity under section 15(1) to accept in respect of the supply any*
 - a) restrictions which must be imposed for the purpose of enabling the public electricity supplier to comply with regulations; and*
 - b) terms restricting any liability of the public electricity supplier for economic loss resulting from negligence which is reasonable in all the circumstances for that person to be required to accept.*
- **Concern:** The abovementioned provision is unfair and unreasonable. It is limiting liability on the part of the public electricity supplier for economic loss (financial loss) caused to consumers due to the supplier’s negligence. It also avoids the supplier from adhering to the regulations/policies which may be necessary to comply with. This provision appears to be from the service provider’s perspective only whilst compromising on the rights and interests of consumers.
- **Recommendation:** This provision needs to be expunged and/or drafted in a way that the public electricity supplier is held liable for the financial loss resulting from its negligence.

5.10 Section 23 (1)

- *“Any dispute arising under sections 15 to 22 between the public electricity supplier and a person requiring the supply of electricity—
a) may be referred to the Regulator by either party; and
b) on such a reference, will be determined by order made either by the Regulator or, if the Regulator thinks fit, by an arbitrator, appointed by the Regulator,
and the practice and procedure to be followed in connection with any such determination will be such as the Regulator may consider appropriate.”*
- **Concern:** Resolution of any dispute through the process of arbitration can be complex. The participants can be encouraged to use mediatory process at the Fiji Mediation Centre to ensure the disputes are resolved in a timely manner. This will also ensure that the disputants have a win-win situation in their disputes.
- **Recommendation:** The dispute can be referred to the Fiji Mediation Centre for mediation as a first step. If the dispute is not resolved at the Centre, then it could be submitted to arbitration for resolution as the next step. All the provisions which require grievances and/or disputes to be resolved through arbitration should be referred for mediation as a first step for dispute resolution.

5.11 Section 33 (1):

- *“The public electricity supplier and any licensee may reduce, as they may think fit, the quantity of electricity supplied to any consumer if, by reason of any unforeseen circumstances beyond their control, it may appear that the supply of electricity generated is insufficient to enable the full quantity to be supplied.”*
- **Concern:** The provision does not require the public electricity supplier to inform the consumers about the reduction in the quantity of electricity supply. As such consumers would not be able to prepare themselves in advance due to insufficient supply of electricity to them.
- **Recommendation:** The reduction in the full quantity of supply of electricity needs to be communicated within a certain timeframe to consumers. The legislation should contain a mandatory provision that will require the public electricity supplier to inform the consumers about the reduction in the quantity of electricity. There will definitely be factors/indicators within the company of the electricity supplier that will determine the insufficient supply of electricity beforehand.

5.12 Section 33 (2):

- *“Where the quantity of electricity has been reduced as aforesaid and in each case the public electricity supplier or the licensee has acted in accordance with its licence conditions—
a) no liability will be incurred by the public electricity supplier or the licensee, as the case may be, in respect of any loss or damage caused by such reduction; and
b) in appropriate cases, an abatement in the charges for the supply of electricity will be made in proportion to the reduction made”.*
- **Concern:** The provision prohibits the public electricity supplier and licensee to incur any liability for losses or damages caused to the consumers. It is unfair that the actions of the public electricity supplier or licensee are fully borne by the consumers for no fault of theirs.

- **Recommendation:** The public electricity supplier or licensee needs to bear some liability in respect of any loss or damage caused by a reduction in the supply of electricity. The provision should be amended to include this arrangement.

5.13 Section 33 (3)

- *"The public electricity supplier or a licensee, their servants or agents, will not be liable (provided the damage is not caused by a breach of a licence condition) for any damage to persons or property or for any cessation of the supply of electricity which may be due to unavoidable accident, fair wear and tear, or overloading due to unauthorized connection of apparatus, or to the reasonable requirements of the system, or to defects in any installation not provided by the public electricity supplier or licensee, as the case may be, but will be liable when such damage or cessation is shown to have resulted from negligence on the part of the public electricity supplier, a licensee, their servants or agents, as the case may be, or from faulty construction of the installation."*
- **Concern (a):** This is currently the situation in the existing Electricity Act which protects the service provider from any liability incurred due to power outages and surges and other unavoidable accidents. A consumer is not provided with any redress or compensation for the damages sustained on their properties.
- **Concern (b):** This provision is contradictory to Section 33 (2) whereby the public electricity supplier or licensee will not bear any liability in terms of a reduction in the supply of electricity to consumers but will however, be liable when damages have resulted from negligence on the part of the public electricity supplier, a licensee, their servants or agents from faulty construction of the installation. The reduction in the supply of electricity and the damages caused needs to be treated in the same manner. The liability cannot be fully borne by the consumer for the former.
- **Recommendation:** The provision should be modified to include liability on the public electricity supplier's part due to unavoidable accidents and overloading, etc.

5.14 Section 42 (1)

"No consumer may use electricity supplied to the consumer for purposes other than those for which such electricity is supplied."

- **Concern:** This provision could be made clearer by stating examples of "purposes other than those" for which the electricity is supplied.

5.15 Section 51 (1) and (2) regarding disconnection of supply of electricity

*(1) – "Where any person employed by the public electricity supplier or a licensee finds upon any premises evidence which in the person's opinion indicates **that an offence has been committed** under the provisions of section 52(2), the public electricity supplier or the licensee or any person duly authorized by the public electricity supplier or the licensee, as the case may be, may, **upon giving not less than 24 hours' written notice thereof, in such form as may be prescribed, cause the supply electricity to be disconnected from such premises.**"*

(2) – “Notwithstanding subsection (1), *where electricity is used by the consumer for business, professional or industrial purposes and the disconnection of the supply of electricity would prevent the consumer from carrying on the consumer’s business, profession or industry, the supply of electricity must not be disconnected without the approval of the Regulator endorsed upon the notice referred to in subsection (1).*”

- **Concern (a):** The Council wishes to clarify why domestic consumers are treated differently from commercial consumers despite both of them paying for using electricity. The offence is committed by both the domestic and the commercial consumer but the domestic consumer receives a written notice of less than 24 hours before the disconnection while the commercial consumer may not be subject to disconnection at all. This is simply unfair.
- **Concern (b):** Moreover, the use of consumers in the abovementioned section is contrary to the definition and use of the term “consumer” in all other legislations. Perhaps the Bill could be amended to mention “*where electricity is used for business, professional or industrial purposes.*”

5.16 Section 51 (4):

- “*If the supply of electricity has been disconnected under the provisions of the preceding subsections, the public electricity supplier or employee of a licensee, as the case may be, may determine the period for which such disconnection will be enforced, provided that such period does not exceed one month.*”
- **Concern:** This provision is harsh and unfair. A consumer is expected to be without electricity for one month, which happens to be a basic need. If anything, the supply should be restored within 7 days’ time to allow consumers to use such essential services once the consumer has complied with the laws and policies in place. One month without electricity is too long a time.
- **Recommendation:** The provision can be amended to include 7 days instead of one month.

6.0 Conclusion

The Electricity Act (*Cap 180*) was designed from the producer perspective of electricity supply. The Electricity Bill 2017 is also written along the lines of the producer of electricity, the Regulator and licensees in generating the supply of electricity. The Bill does cover consumer interests but the provisions are limited. The legislation needs to be balanced where both the producer and consumer perspectives are taken in to account. Regulatory reforms must consider the national interest while balancing both consumer and investor interests

--- ENDS ---

A) Consumer Complaints regarding overcharged bills

- **Mr. Birendra Dutt**: As per the electricity bill issued, he has used 125 units for the period of 24th June 2010 to 17th July 2010. It is understood that by virtue of the determination, the consumer should be charged the approved Domestic Lifeline Tariff which is 17.20 cents. Nevertheless, he was charged 34.84 cents for the 125kwh;
- **Mr. Bhagwat Prasad**: The bill issued for the period 11th June 2010 to 9th July 2010 contains energy usage of 128 units and the consumer is still charged a tariff rate of 34.84 cents. Before tariff determination his bill was around \$26.00 but now the bill increased to \$46.58;
- **Mr. Jagnandan Chetty**: His bill for the period 3 Feb 2010 to 3 Mar 2010, after normal reading for 29 days contains energy usage of 106 units which amounted to **\$21.92** using old tariff rate. The bill issued for the period 3 June-1 July 2010 (estimated) contains energy usage of 125 units for 29 days which increased to **\$40.60** using new tariff rate. So how did a person receiving \$30 benefitted from the tariff determination?
- **Mr. Napolioni Muakalou**: His previous bills were estimated for the month of April which was \$4.12 and May was \$4.13. His June Bill shows energy consumption of 730 units and the time period is 27th May to 27th June 2010. From the 730 units, the consumer is charged 319 units at 20.59 cents and 411 units at 34.84 cents. It is apparent from the bill that the 63 days for April and May and 13 days till June 9th should be calculated using old tariff rate of 20.59 cents. However from 10th June to 27th June (i.e. 17 days) new tariff rate of 34.84 cents should apply. Can FEA explain why 319 units were calculated using old rate while 411 units were calculated using new rate? Is FEA trying to say that this consumer used 411 units in 17 days and 319 units in 76 days? Can FEA prove that? Please note previously, the consumer has been charged about \$4.12 and \$4.13 on an estimated reading. All of sudden, his bill has increased to \$231.02 which is extremely outrageous.

B) Infrequent Billing

Case Study

In February and March 2010, Miss Jane did not receive her FEA bill. After waiting for few months, Miss Jane wrote to FEA advising them that she had not received her electricity bill. Unfortunately, there was no response by FEA to her letter.

A year had lapsed and Miss Jane still did not receive any bill. In April 2011 the meter was disconnected. Interestingly, the disconnection card provided to Miss Jane had another customer's name on it. Despite Miss Jane advising FEA's customer service representative that her meter was wrongfully disconnected as the disconnection card account number and name did not match with her meter, FEA was adamant that the reconnection amount must be paid by Miss Jane. Miss Jane had no choice but to pay \$30.92 as per the disconnection card to enable restoration of electricity at her residence.

Miss Jane wrote to FEA regarding this error and also questioned why she was being penalized. Again there was no response from FEA. Despite all this, no bills were sent to Miss Jane.

In June 2011, Miss Jane was issued with another disconnection notice which again appeared under the previous customer's name. Miss Jane contacted FEA and was advised that a new account was incorrectly created on the same meter number under a different name and it is for this reason no bills were issued to Miss Jane.

In July 2011, Miss Jane finally received a bill amounting to \$1,030.20. FEA admitted causing inconvenience to Miss Jane due to error on their part. Despite FEA acknowledging this error, Miss Jane was asked to pay 50% of the outstanding amount immediately and the remainder amount within the following three months. Miss Jane believed the conduct of FEA to be unfair, when FEA has been at fault all along. Miss Jane paid 50% of the outstanding amount and requested FEA to give time to pay the rest of the payment within the following 6 months.

Due to the error by FEA, Miss Jane was inconvenienced time and again. As a consumer, Miss Jane exercised her responsibility and wrote to FEA informing that she was not receiving any bills. FEA must ensure that bills are issued on a regular interval instead of conveniently bulk billing consumers and expecting them to pay over a short period.

Annex 2: Faulty Meters

Annex 3: Staff Negligence

Annex 4

FEA TARRIFF RATE FROM 1998 to 2017 (To Date)

	1998	1/8//99	2000	2001	2002	2003	2004	1/1/2005	1/1/2006	2007	1/8/2008	1/9/2009	10/6/2010	01/11/2010	1/04/2011	2013 - 2014	2015	2016- to date
Domestic Lifeline Tariff Domestic lifeline cents per unit. Less than or equal to (<=) 250kWh per month averaged over a maximum six month rolling period	22.09	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	No longer applicable	-	-	-	-	-
Domestic Other Tariff Cents per unit – greater than (>)250kWh per month average over a maximum six month rolling period	22.09	20.59	20.59	20.59	20.59	20.59	20.59	21.27	21.95	21.95	22.63	26.02	No longer applicable	-	-	-	-	-
Domestic Lifeline Tariff Domestic lifeline cents per unit Less than or equal to (<=)130kWh	New tariff band											20.59	17.20	17.20	17.20	-	-	-
Domestic Tariff Domestic lifeline cents per unit Less than or equal to (<=) 75kWh																17.20		
Domestic Tariff Domestic lifeline cents per unit Less than or equal to (<=)85kWh																	17.20	
Domestic Tariff Domestic lifeline cents per unit Less than or equal to (>)85kWh																	33.10	
Domestic Lifeline Tariff Domestic lifeline cents per unit Less than or equal to (<=)95kWh																		17.20
Domestic Lifeline Tariff Domestic lifeline cents per unit Less than or equal to (>)95kWh																		33.10
Domestic Other Tariff Cents per unit – greater than (>)130kWh per month	New tariff band											26.02	34.84	34.84	34.84	33.10		
Commercial and Industrial Tariff Cents per unit – for units up to 14,999 kWh per month	22.21	20.71	20.71	20.71	20.71	20.71	20.71	22.14	23.57	23.57	24.91	28.65	37.47	39.3	42.00	39.90	39.90	39.90
Commercial and Industrial Tariff Cents per unit – for units in excess of 14,999 kWh per month	20.00	20.00	20.00	20.00	20.00	20.00	20.00	21.38	22.76	22.76	24.06	27.67	39.47	41.4	44.00	41.80	41.80	41.80

Maximum Demand Tariff (i) Demands over 1000kW Demand Charge per KWh per month Energy Charge in cents per unit	\$18.35 12.00	\$18.35 12.00	\$18.35 12.00	\$18.35 12.00	\$18.35 12.00	\$18.35 12.00	\$18.3534 12.00	\$19.62 12.83	\$20.89 13.66	\$20.89 13.66	\$22.08 14.44	\$25.39 16.61	\$27.59 18.81	\$33.11 24.92	\$40.20 33.50	\$38.19 31.83	\$38.19 31.83	\$38.19 31.83
(ii) Demands between 500kW to 1000kW Demand Charge per kW per month Energy Charge in cents per unit	\$18.35 13.50	\$18.35 13.50	\$18.35 13.5	\$18.35 13.50	\$18.35 13.50	\$18.35 13.50	\$18.3534 13.50	\$19.62 14.43	\$20.89 15.36	\$20.89 15.36	\$22.08 16.24	\$25.39 18.68	\$27.59 20.88	\$31.73 25.06	\$38.50 31.00	\$36.57 29.45	\$36.57 29.45	\$36.57 29.45
(iii) Demands between 75kW to 500kW Demand Charge per kW per month Energy Charge in cents per unit	\$18.35 14.00	\$19.62 14.97	\$20.89 15.94	\$20.89 15.94	\$22.08 16.85	\$25.39 19.38	\$27.59 21.58	\$31.73 24.82	\$36.20 28.50	\$34.39 27.07	\$34.39 27.07	\$34.39 27.07						
Excess Reactive Energy Penalty Rate – cents per unit	13.14	13.14	13.14	13.14	13.14	13.14	13.14	17.08	17.08	17.08	17.08	19.64	19.64	44.00	44.00	41.80	41.80	41.80
Institution Tariff c/kWh Energy Charge in cents per unit	22.09	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	20.59	34.84	34.84	33.10	33.10	33.10
Street Light Tariff c/kWh Energy Charge in cents per unit	17.98	17.98	17.98	17.98	17.98	17.98	17.98	17.98	17.98	17.98	17.98	17.98	34.84	34.84	34.84	33.10	33.10	33.10