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# Draft Bill for the Electricity Act

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*Boston University*

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## DRAFT BILL FOR THE ELECTRICITY ACT

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**Note** This draft represents an effort to redraft the existing draft bill in better form, but without making significant changes in substance. It should be viewed, therefore, only as an exercise in legislative techniques, not an effort to improve the substance of the bill.

I have annotated a few sections, to indicate the use of the annotation technique; these are not to be regarded as complete.

I had only a day and a half to work on this; it is a very first draft, and contains many mistakes.

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### PART ONE GENERAL PROVISIONS

#### CHAPTER I. GENERAL PROVISIONS

##### 1. Subject-matter<sup>1</sup>

(1) In this Act, 'electricity activities' means the generation, conversion, transmission, distribution and export and import of electricity, and building facilities to carry out those activities.

(2) This Act concerns electricity activities in the Lao P.D.R.

##### 2. Interpretation<sup>2</sup>

(1) The State owns and controls the national electricity potential, wherever located. The national electricity system belong to the national community. For purposes of the promotion and administration of the national electrical system, the

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<sup>1</sup> This section serves to tell the reader the general subject-matter of the bill, as a matter of convenience to the reader.

<sup>2</sup> This section takes the place of the more conventional "General Principles" or "Objectives" sections. In any event, those sections merely serve as guides to interpretation.

Government acts as representative of the national community.

(2) This Act aims to <sup>a)</sup> develop the domestic use of electricity, to develop the export of electricity, <sup>b)</sup> to ensure the reliability and safety of the electrical system, to encourage the use of new technologies, renewable energy sources and clean energy sources in the production of electricity, to build the facilities to make that possible at the lowest feasible cost, and to maximizwe the return to the Lao government from the export of electricity, while at the same time protecting the environment from potential adverse effects of the development of electrical systems, ensuring the safety of electricity activities with respect to employees of licensees, consumers, and citizens generally, and accomplishing the rapid integration of Lao citizens at all levels of electricity activities.

(3) Officials, judges and others shall interpret this Act liberally to carry out those objectives.

### 3. Scope

(1) Except as set forth in subsections (2), (3) and (4), this Act applies to all electricity activities in the Lao P.D.R.

(2) This Act does not apply: --

- a. to the use of waterfalls or to hydropower or the development of watercourses;
- b. to binding agreements concerning electricity activities made by the Government with private persons before this Act becomes effective; nor
- c. to electricity activities under the control of the

national military forces, or to other secret installations of the government within the territory of the Lao P.D.R.

## PART TWO

### THE OBLIGATIONS AND RIGHTS OF A PERSON ENGAGED IN ELECTRICAL ACTIVITIES

#### CHAPTER II. REQUIREMENT OF A LICENSEE

#### 4. Definition of 'Minister' and 'Ministry'<sup>3</sup>

(1) In this Act, 'Minister' means the Minister of Industry and Handicrafts.

(2) In this Act, 'Ministry' means the Ministry of Industry and Handicrafts.

#### 5. Requirement of a License

(1) Except as set forth in Subsections ~~(2)~~<sup>4</sup> and (3), a person may not engage in electrical activities without procuring a license to do so pursuant to this Act.

(2) Except as set forth in Subsections ~~(2)~~<sup>4</sup> and (3), a person may not extend an existing electrical facility without procuring a license to do so pursuant to this Act.

(3) Notwithstanding Subsection (1), person may without a license install a generation plant --

- a. with an installed capacity of less than 1 MVA, and
- b. that does not entail a negative environmental

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<sup>3</sup> This bill adopts the strategy of defining words when first they appear. The general definitions section appears at the end of the bill. Where the bill has earlier defined a word or phrase, the general definitions section merely refers to the section where that definition first appears.

impact.

(4) Notwithstanding Subsection (1), the Minister may by regulation determine the voltage at or below which a person need not obtain a license to engage in a specified electrical activity.

### CHAPTER III. OBLIGATIONS OF A LICENSEE

#### 6. Licensee's Obligation to Supply Electricity

(1) In this Act, 'licensee' means a person to whom pursuant to Chapter VI the Minister has granted a license to conduct electricity activities

(2) Except as set forth in Subsection (2), a licensee shall supply regular and reliable electricity --

- a. to all persons to whom by license or contract the person has an obligation to supply electricity; and
- b. if a distribution licensee, to all persons within the area specified in the license.

(3) A licensee may not reduce or cease the supply of electricity as prescribed by Subsection 1, or to refuse electricity to a person with a right to receive electricity from the licensee, except --

- a. when a force majeure makes it impossible to comply with Subsection (1);
- b. pursuant to regulations promulgated by the Minister, to an electricity user who does not pay for electricity pursuant to the terms of that user's contract with the licensee;
- c. pursuant to regulations promulgated by the

Minister, to a person who has a right to receive electricity and who requests electricity, but does not appear able to pay for it; and

- d. subject to Subsection (3), when, due to necessary maintenance and repair of the electrical system, the licensee briefly suspends the service of electricity.

(4) Where pursuant to Subsection (2) (d), a licensee plans an outage, the licensee shall inform consumers as far in advance as possible by means of public notices or individual letters.

#### **7. General Obligations of a Licensee**

A licensee shall:

- a. conform to the conditions of the license;
- b. conform to all provisions of Lao law;<sup>4</sup>
- c. if a license to install facilities, commence the work within the time stipulated in the license, and in any event not later than one year after the Minister grants the license;
- d. if a license to install facilities, complete the work within the time stipulated in the license, and in default of a stipulated time, within three years after the Minister grants the license;
- e. arrange and pay for inspections and monitoring of the construction and operation of the facility by

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<sup>4</sup> This provision prevents a licensee from claiming that he or she need only conform to the license provisions -- particularly with respect to environment and safety, a matter of some importance .

- the relevant governmental authority;
- f. pay full compensation for damage to private and public property and rights caused by the licensee in the course of the licensed activities; and
  - g. prior to entering upon a contract for the export of electricity, apply for and receive approval from the Minister.

#### 8. **Transfer of a License**<sup>5</sup>

(1) A licensee may not transfer a license to another person earlier than three years after the issuance of the license.<sup>6</sup>

(2) A licensee may transfer a license only to a person whom, after an application made pursuant to Section 36, the Minister has approved.

#### 9. **Transit of Electricity**

(1) Subject to subsection (2), if technical capacity exists, a licensee may use the transmission lines and electrical grid of another licensee to transit electricity.

(2) Notwithstanding subsection (1) in order to transit electricity over the transmission lines and electrical grid of another licensee, a licensee shall pay a transit rate equal to the actual cost of transmission plus an aliquot share of the carrying costs of the transmission lines and electrical grid transited, plus four percent of those transmission and carrying costs, as

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<sup>5</sup> A danger always exists that a speculator will obtain a license and seek a profit by selling it to another. The Ministry must of course maintain control over the person actually doing the work of the license; hence this Article.

<sup>6</sup> A necessary provision to prevent speculation in licenses.

determined either by the parties by agreement, or in default of agreement, by the Electricity Tariffs Board.

**10. Ownership of Electricity Property after Termination of a License.**

Upon termination of a license, the Lao P.D.R. shall take ownership and control over the electrical facilities formerly subject to the license, without compensation to the former licensee.

**11. Tariffs**

(1) In this Act, 'Board' means the Electrical Tariffs Board mentioned in section 24.

(2) For the product of a licensed activity, a licensee may charge --

- a. for domestic and foreign users and buyers of electricity, for an activity for which pursuant to this Act the Board has prescribed a tariff, the tariff thus prescribed;
- b. for domestic users, for an activity for which the Electrical Tariffs Board has not set a tariff, but for which the licensee's license sets a tariff, a tariff not exceeding the amount set in the tariff;
- c. for foreign buyers of electricity, for which the licensee's license sets a tariff, a tariff not less than the amount set in the license; or
- d. for an activity for which neither the Board nor the license has prescribed a tariff, whatever the



licensee and the buyer of electricity or the services involved may agree.

## 12. Training<sup>7</sup>

(1) A licensee shall train Lao citizens in all aspects of electricity activities.

(2) Within six months after beginning work under a license, a licensee shall employ only Lao citizens for unskilled work in connection with the licensed activities.

(3) Except as set forth in Subsection (6), within two years after receipt of a license, a licensee shall employ only Lao citizens in all job categories within Lao related to the licensed activities, up to the professional level.

(4) Except as set forth in Subsection (6), within five years after receipt of a license, a licensee shall employ only Lao citizens in all job categories within Lao related to the licensed activities, except the highest levels of management.

(5) Except as set forth in Subsection (6), within ten years after a receipt of a license, a licensee shall employ only Lao citizens in all job categories within Lao related to the licensed activities.

(6) Notwithstanding Subsection (3), (4) and (5), by petition to the Minister, a licensee may obtain an exemption for a particular employee in a particular job.

a. The application for an exemption shall detail the

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<sup>7</sup> The original draft contains none of these provisions. I include them only as a sample of what might be included.

efforts made by the licensee to train Lao citizens in the job category involved, the availability of Lao citizens in the job category, and the time when a Lao citizen will become available to fill the job in questions

- b. The Minister may approve the application if: --
- (i) the licensee has made and proposes to continue to make substantial efforts to train Lao citizens for the job involved;
  - (ii) no Lao citizens currently seem available for the job; and
  - (iii) the exemption is limited to two years.

(7) The Minister may not grant an exemption pursuant to Subsection (6) for a period longer than two years after the licensee should have filled the post with a Lao citizen, nor may the Minister grant an extension of an exemption.

#### **CHAPTER IV. ENVIRONMENTAL PROTECTION; SAFETY**

##### **13. Licensee's Obligations to the Environment**

(1) In connection with activities pursuant to a license, a licensee shall take the maximum feasible steps to protect the environment.

(2) In particular, in connection with activities pursuant to a license, a licensee shall take the maximum feasible steps to protect cultural, ecological, landscape or architectural monuments and values.

(3) With respect to protection of the environment, in

addition to conforming to the requirements of the license, a licensee shall strictly conform to law and to regulations promulgated by STENO.

(4) A licensee shall, pursuant to a schedule agreed upon with the Minister, periodically conduct seminars and workshops among its managerial and executive employees concerning environmental protection.

**14. Liability of Licensee, License Transferees, Subsequent Owners of Land, Lessors and Mortgagors for Removing Pollutants**

If a licensee pollutes the land on which the licensee conducts activities, the licensee, a subsequent transferee of the license, a subsequent owner of land that the licensee transfers to a private owner, the landowner from whom the licensee leases the land, and a mortgagor who advanced funds to the licensee on the security in whole or in part of the land involved, shall bear joint and several liability to repair the pollution.

**15. Safety**

(1) A licensee shall conduct electricity activities with the care of an extremely careful and prudent electricity generator, converter, transmitter, importer and exporter, and distributor.

(2) With respect to the safety of its employees, in addition to conforming to the requirements of the license, a licensee shall strictly conform to law and to regulations promulgated by the Minister of Labour and the Minister of Health.

(3) With respect to safety for consumers and citizens generally, a licensee shall strictly conform to regulations

promulgated by the Minister.

#### CHAPTER V. RIGHTS OF LICENSEES

##### 16. Licensee's Rights to Ownership.<sup>8</sup>

(1) For the duration of a license, except for a price equal to its fair market value, payable immediately, the government may not expropriate property of the licensee used in connection with the licensed electrical activities and in accordance with law.

(2) Except as set forth in Subsection (3), the Government shall pay the price stipulated in Subsection (1) in Lao currency.

(3) Notwithstanding Subsection (2), the Government shall pay to a foreign investor that portion of price stipulated in Subsection (1) in convertible currency that the amount that the licensee paid in hard currency for the expropriated property bears to the total cost of the property.

##### 17. Licensee's Rights to Lease Land

(1) A Licensee, whether foreign or domestic, may lease land or rights in land necessary to accomplish the purposes of the license.

(2) No person nor the Government of Lao nor an agent or department of the Government may disturb a licensee in the quiet possession of land occupied pursuant to Subsection 1

#### CHAPTER VI. RURAL ELECTRICIFICATION

##### 18. 'Rural Electricity' defined.

(1) In this Act:

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<sup>8</sup> It may be that the Foreign Investment Act provides equivalent protection for foreign investment; if so, this Article becomes superfluous.

- a. 'rural electrification area' means a Province, special area, district or village of a predominantly rural character;
- b. 'rural electricity system' means an electricity system that services a rural electrification area, including systems tied into the national electricity system, and independent electricity systems.

#### 19. **Accomplishing Rural Electrification**

(1) So far as feasible, as a basis for commodity production and to raise the quality of life for rural people, the State provides electricity for rural areas. This Chapter and Chapter 12 should be construed to accomplish these objectives.

(2) A rural electrification area may request the Minister for assistance in procuring electricity for their area.

#### 20. **Financing Rural Electrification**

(1) A rural electrification area may finance its electricity system from --

- a. the yearly state budget;
  - b. the relevant province's budget;
  - c. the budget of EDL;
  - d. loans;
  - e. international grants in aid;
  - f. contributions from or levies upon local people.
- (2) For projects for which the rural electrification area will not likely have the resource to pay interest and

repay capital upon a loan, Electricite du Laos or another government ministry may create a fund to make the project economically viable.

### **PART III IMPLEMENTATION**

#### **CHAPTER VII. THE MINISTER OF INDUSTRIES AND HANDICRAFTS**

##### **21. Criteria for the Exercise of Discretion**

(1) In all its activities, the Minister shall exercise his powers and discretion to further the objectives of this Act as stated in Article 2. On exercising discretion, the Minister shall take special care to ensure that his decisions take into account the interests of women, children, minorities and the poor.

(2) The Minister may exercise discretion concerning licenses, rural electrification and tariffs only if he has in place regulations detailing the considerations to be taken into account in making a decision about granting or refusing a license, about rural electrification or about tariffs.

##### **22. Powers and Duties of the Minister of Industries and Handicrafts**

(1) The Minister has general responsibility for the management and control of all electricity activities in the Lao P.D.R.

(2) The Minister shall:

- a. make and promulgate policies concerning electrical activities;
- b. gather information and statistics concerning

- electrical activities;
- c. prepare, publicize and distribute reports concerning electrical activities;
  - d. prepare and promulgate projections of future electrical demand;
  - e. prepare plans and work plans for electricity activities, that balance demand and supply of electricity;
  - f. do research and make initial surveys concerning the development of electricity activities;
  - g. find funds for electricity development;
  - h. approve investment plans of EDL, where necessary coordinating with other relevant ministries;
  - i. Approve projects in which EDL proposes to invest, including projects in which EDL will constitute the sole investor, and those in which EDL will invest together with other investors;
  - j. research opportunities for self-managed electricity activities outside the general national grid, including those for the private production of electricity and for rural self-managed electricity systems;
  - k. supervise entities that undertake electricity activities for community usage in their responsibilities within the prefecture proper;
  - l. conduct research and approve research on the cost

of electricity; and

- m. publicize internationally opportunities for foreign investment in electricity activities in the Lao P.D.R.

(3) In connection with the management of electricity activities, the Minister shall:

- a. draft short term and long term plans regarding the administration, management and development of electricity activities;
- b. advise investors of proposed electricity activities projects;
- c. determine the scope and necessary condition for investment in electricity sources;
- d. determine detailed standards and levels of electrical power quality, the level of voltage, the quality and safety of equipment, installations and procedures for users and for those who work within the national electricity system;
- e. draft and promulgate regulations for the organization, management and development of electricity activities;
- f. process, and approve or disapprove applications for a license to conduct electricity activities;
- g. periodically inspect licensee's operations to determine the level and adequacy of service, and their adherence to the terms of their licenses and



- to Lao law generally;
- h. determine whether a licensee ought to continue as a licensee under this Act; and
  - i. approve or disapprove proposed export contracts for which a licensee has applied for permission pursuant to section 7(g).

### 23. Rule-making

(1) The Minister shall make regulations where indicated in this Act, and generally to further the purposes of the Act.

(2) Before promulgating a regulation, the Minister shall --

- a. publish in a newspaper of general circulation in the Lao P.D.R. notice that it proposes to write a regulation concerning a particular subject, and inviting contributions from the public at large;
- b. accompany a proposed regulation with a research report stating the difficulty that the proposed regulation aims to ameliorate, its causes, and how the regulation will address those causes;
- c. after drafting the proposed regulation, publish it in a newspaper of general circulation in the Lao P.D.R., together with a notice that it has the published regulation under consideration, that interested parties may obtain the research report on request from the Ministry, and inviting comment from interested parties, and sending a copy to all licensees, local, district and provincial

- governments, and the Electricity Public Advocate;
- d. in cases involving particular local interests, after publicizing the meeting in the vicinity not less than ten days before the meeting, hold at least one public meeting in the vicinity involved;
  - e. publish a final version of the regulation not less than three months after giving the notice mentioned in subsection (2) (b), and
  - f. as to each comment received, either amend the proposed regulation in accordance with the comment, or explain in a document to accompany the promulgated regulation, explain why the Minister rejected the comment.

#### **CHAPTER VIII. THE ELECTRICITY TARIFFS BOARD**

##### **24. The Electricity Tariffs Board**

(1) In this Act, 'Board' means the Electricity Tariffs Board created by this Act.

(2) The Minister shall appoint a Board of three members, one of whom the Minister of Finance shall nominate from among the officials of the Ministry of Finance. Of the first three members appointed, one member shall serve one year; another member, three years; and the third member, five years. Subsequent appointees shall serve for five years. On the expiry of the term of the member nominated by the Minister of Finance, that Minister shall nominate the successor member.

(3) The Minister shall designate one of the members as

Chairperson.

25. **Powers and Duties**

- (1) The Electrical ~~T~~<sup>e</sup> Tariffs Board shall --
  - a. upon petition by a licensee or by a local, district or provincial government, determine the domestic tariff for electricity and for connected services performed by licensees;
  - b. upon request of the Minister pursuant to section 35(5), advise the Minister on the suitability of tariffs proposed by an applicant for a license, pursuant to section 34(3)(g), for either a domestic or a foreign tariff.
- (2) Before deciding a question of electricity tariffs pursuant to subsection (1)(a), the Board shall by public notice and by letter to known stakeholders, to the Rural Electricity Commissioner and to the Electricity Public Advocate give not less than 30 days notice of the hearing and the issue that the Board will resolve.
- (3) At that hearing, a stakeholder, the Rural Electricity Commissioner and the Electricity Public Advocate may appear by person or by representative. The Electrical T ariffs Board shall make a written record of the proceedings, and make its decision setting a tariff in writing, stating reasons.
- (4) In determining a domestic tariff, the Electricity Tariffs Board shall take into consideration --
  - a. the actual cost of supplying the electricity or

- service, not to exceed the minimum cost that a reasonably competent and efficient licensee might have supplied the same electricity or service;
- b. the actual cost of capital for the equipment involved in supplying the electricity or service, not to exceed the reasonable cost of that capital; and
  - c. and, taking into account the current rate of capital return in the Lao P.D.R., an additional amount necessary to make it possible for persons engaged in electricity activities to raise necessary capital funds.<sup>9</sup>

(5) The Electrical Tariffs Board may not set a domestic tariff below the tariff prescribed by a license.

(6) A domestic tariff imposed by the Electrical Tariffs Board pursuant to subsection (4) shall apply uniformly to all customers of the licensee similarly situated.

(7) In advising the Minister pursuant to request made pursuant to section 35(4) concerning a tariff proposed by an applicant for a license, the Electrical Tariffs Board shall:--

- a. take into account the factors mentioned in subsection (4);
- b. respond to the Minister's request for advice within

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<sup>9</sup> This formula ensures that a licensee will receive his cost plus a fair return on its capital investment, measured by the average cost of capital in the Lao P.D.R. This formula derives from the usual U.S. standard, and seems usable under the Lao circumstances.

ten days after receipt;

- c. and advise the Minister in writing, stating reasons.

#### CHAPTER IX. THE RURAL ELECTRIFICATION COMMISSIONER

##### 26. The Rural Electrification Commissioner<sup>10</sup>

(1) In this Act, 'Commissioner' means the Rural Electrification Commissioner.

(2) From among the officials of the Ministry, the Minister shall appoint a person with considerable experience or training in electricity production to serve as Commissioner.

(3) The Commissioner shall serve at the pleasure of the Minister.

(4) When not engaged in the duties of the Commissioner, the Commissioner shall perform other duties for the Ministry.

##### 27. Powers and Duties of the Rural Electrification Commissioner

The Commissioner shall: --

- a. publicize among rural communities its existence, purposes, powers and availability;
- b. prepare plans for the electrification of rural electrification areas;
- c. help neighboring rural electrification areas plan their electricity systems in conjunction;
- d. in all respects aid a rural electrification area applicant for a license to prepare the license

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<sup>10</sup> This changes the committee established by the existing Act to a single Commissioner; that seems more efficient. It expands the Commissioner's duties somewhat over those originally assigned to the Committee.

- application and its supporting documents, including making detailed studies, surveys designs and plans, advising on financing and aiding the rural community find financing, and calculating socio-economic and environmental effects;
- e. in all respects aid a rural applicant for a license to process the license in all its stages;
  - f. serve within the Ministry as advocate and technical advisor for rural people, and especially at public hearings on applications for a license to conduct electricity activities and in preparing comments on an application;<sup>11</sup> and
  - g. after construction, arrange for the management of the rural electricity system.

#### CHAPTER X. THE ELECTRICITY PUBLIC ADVOCATE

##### 28. The Electricity Public Advocate

(1) From among the senior officials of the Ministry, the Minister shall appoint an Electricity Public Advocate.

(2) The Electricity Public Advocate shall serve for a term of five years.

(3) When not engaged in the duties of the Public Advocate, the Electricity Public Advocate shall perform other duties for the

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<sup>11</sup> Without an advocate, participation for the poor and the (usually) poorly educated remains a symbolic gesture. The Commissioner and the Public Advocate are created in part to provide the poor with a voice in the proceedings about electricity that affect their lives,

Ministry.

#### **29. Powers and Duties of the Electricity Public Advocate**

On his own initiative or at the request of an individual, a group of individuals or a local, district, municipal or provincial government, represent the non-rural public in a proceeding under this Act.

### **CHAPTER XI. ELECTRICITE DU LAOS<sup>12</sup>**

#### **30. Definition of EDL**

In this Act, EDL means Electricite du Laos.

#### **31. Electricite du Laos**

(1) EDL constitutes a state enterprise, with the status of a juristic entity, and with business and financial independence from the Government.

(2) The Minister shall appoint the members of the Board of Directors of EDL, who shall serve at the pleasure of the Minister

(3) The Minister shall approve the appointment of the Managing Director of EDL.

(4) The Minister shall approve the fees and honorariums of the members of the Board of Directors of EDL, and the salary of its Managing Director.

(5) The Government shall receive dividends upon the shares of EDL.

#### **32. Powers and Duties of EDL**

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<sup>12</sup> This Chapter seems very weak; it needs more thought and much more detail about the structure and functions of EDL.

(1) EDL shall oversee the management of all electricity activities in the Lao P.D.R..

(2) EDL shall hold Government's shares in a joint venture between a private investor and the government of the Lao P.D.R..

## **CHAPTER XII. APPLICATIONS AND THE APPLICATION PROCESS**

### **33. Regulations**

The Minister shall make and promulgate regulations concerning applications for a license to conduct electricity activities, concerning the application process, and concerning the content of licenses.

### **34. Application for a License<sup>13</sup>**

(1) Except as set forth in Subsection (2), a person proposing to conduct a project involving electricity activities shall submit to the Minister an application for a license, in the form and with the content prescribed by the Minister by regulation.

(2) Notwithstanding subsection (1), a foreign investor may submit an application to the Committee on Foreign Investments, who shall forthwith forward the application to the Minister for consideration.

- a. The Committee on Foreign Investments may not approve an application for a foreign investment in an electricity activity without prior approval by

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<sup>13</sup> The Foreign Investments Act provides for 'one window' licensing through the FIC. Whether that is wise with respect to electricity licensing seems somewhat problematical. Nevertheless, this Act conforms to the Foreign Investments Act; perhaps that decision, however, requires some re-assessment.

Whether this Chapter belongs under Implementation or in Part II seems a close question. It actually concerns both rules directed to the licensee and to the Minister, and hence could as well fit under either Part.



the Minister of the investor's application.

(3) In addition to the requirements that the Minister by regulation may specify, an applicant shall include at least the following:

- a. the applicant's identification;
- b. if a corporation or partnership, proof of the applicant's legal existence;
- c. a description of the objectives of the project; and
- d. a technical-financial feasibility study of the project;
- e. the extent of interference with the rights of surface owners and occupiers, and the applicant's plan to recompense their losses, if any;
- f. the applicant's plan to provide social improvements for the people in the locality of the proposed project;
- g. the applicant's proposals for domestic tariffs and for tariffs for electricity exported out of the Lao P.D.R.; and
- h. state what, if any, arrangements or negotiations the licensee has undertaken or conducted with respect of the export of electricity, and how much electricity the applicant proposed to export.

(4) The applicant shall include in the technical-financial feasibility study at least the following information: --

- a. detailed plans of the proposed electricity

- activities;
- b. a detailed work schedule for completion of construction involved in the proposed electricity activities
  - c. detailed proposals for the inspection and monitoring of the construction involved in, and the operation of the proposed electricity activities
  - d. the relationship between the proposed electricity activities and national and local electricity plans;
  - e. the maximum capacity of electricity supply in the proposed project;
  - f. the estimated cost of the project;
  - g. tariff study and the tariffs that the applicant proposes to charge different categories of consumers;
  - h. implementation schedule for the accomplishment of the project and the time for commencement of electricity supply; and
  - i. an environmental impact statement concerning the project, and an explanation of how the applicant proposes to reduce environmental impact to the lowest feasible level.

**35. Consideration and Approval of an Application.**

(1) The Minister shall:

- a. within thirty days after receipt of an application,

notify the applicant of any formal deficiencies in the papers submitted; and

- b. within 120 days after notifying the applicant of the formal sufficiency of the papers submitted, approve or reject an application.

(2) The Minister shall grant a license if, but only if, the advantages to the people of Lao resulting from the licensed activities exceeds the damage to public and private interests those activities will likely entail.

(3) Prior to making a final decision on an application, and on not less than ten days' notice, the Minister shall hold a public hearing on the project at a venue at a time convenient for <sup>those</sup> local people *affected by the project* to attend and participate.

- a. At that hearing, the applicant shall present the substance of its proposal, including the nature and extent of the proposed project's interference with surface owners and occupiers, how the applicant proposes to recompense local <sup>residents</sup> ~~people~~ for any intrusion in their use and enjoyment of land, and how the applicant proposes to improve the quality of life of local <sup>residents</sup> ~~people~~.
- b. At that hearing the Rural Electrification Committee shall serve as advocate of the local <sup>residents</sup> ~~people~~.
- c. At that hearing the Public Advocate will serve as advocate for non-rural consumers.

(4) At the time of publishing the notice of public hearing

mentioned in subsection (3), the Minister shall request the Board of Electrical Tariffs for advice concerning the applicant's proposed tariffs for domestic and foreign electricity.

(5) After the hearing, the Minister shall publish in a newspaper of general circulation in the area affected by the project a notice of the pending application, advising where in the area affected by the project a concerned person may view the application, and that interested persons may submit written comments or objections to the Minister within one month after the date of the notice.

(6) The Minister shall approve or reject an application in writing, stating the reasons for the decision. In the approval or rejection, the Minister shall refer specifically to each comment received, and indicate the reasons for its rejection or acceptance.

(7) The license may contain conditions that the Minister reasonably sees fit to require.

**36. Transfer of a License**

(1) A licensee desiring to transfer a license to another pursuant to Section 8 shall jointly with the proposed transferee apply to the Minister for permission to transfer the license.

(2) The application shall conform to regulations that the Minister shall promulgate.

(3) After a hearing on notice to the licensee, the proposed transferee, the employees of the licensee and the people affected by the licensee's activities, pursuant to procedures prescribed by regulations that the Minister shall promulgate, the Minister shall

*Inform National Assembly members of project & announce in local media (in local language)*

determine whether the proposed transfer serves the purposes of this Act.

(4) If the Minister shall not unreasonably reject an application for a transfer of a license. The Minister does not act unreasonably if he rejects a license because he reasonably believes that the proposed transferee will not perform under the license as well as the licensee.

### 37. **Inspecting Work under the License**<sup>14</sup>

(1) From time to time, and in an event not less than annually, the Minister shall cause to be inspected the facilities, service, environmental impact, safety of the licensee's operations, its safety record, and the book's and records of a person holding an electricity license.

(2) On that inspection, if the inspector discovers a condition of imminent, immediate peril to life or health of employees of the licensee or to the public generally, or the threat of imminent and immediate environmental disaster, the inspector may order the licensee immediately to cease all activities contributing to the dangerous condition.

(3) On that inspection, if the inspector discovers conditions that imperil life, safety or health, or the environment, the inspector shall issue a notice to the licensee to repair the noted defect within not more than ten days, and to report the accomplishment of the repair work to the Minister immediately upon its completion.

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<sup>14</sup> This constitutes new material.

(4) Immediately following the inspection, the inspector shall report in writing to the Minister concerning the licensee's adherence to the terms of the license and to the laws and regulations in force.

(5) Upon receipt of the report mentioned in Subsection (1), the Minister shall forthwith forward the report to the licensee, to any organization of the licensee's employees, and to local governmental units within the area affected by the licensee's activities, together with notice that they may comment upon the report within one month after receipt of the notice.

#### CHAPTER XIII. MONITORING THE OPERATION OF THIS ACT

##### 38. Monitoring

(1) Annually on 1 July the Minister shall report to the President upon the implementation of this Act, together with specific identification of problems arising under it and recommendations for improving its implementation.

(2) The President shall forthwith lay that report before the National Assembly, together with the President's comments on its substance.

### PART IV SANCTIONS AND OTHER CONFORMITY- INDUCING MEASURES

##### 39.

#### CHAPTER XIV. CONFORMITY-INDUCING MEASURES

##### 40. Termination of a License

(1) If a licensee materially breaches the conditions of the

license, or if the licensee fails to perform the obligations imposed by the license, in accordance with the procedures mentioned in Subsection (2), the Minister shall terminate the license.

(2) If the Minister has information that leads him to believe that a licensee may be in material breach of the license, the Minister shall forthwith send the licensee a notice that informs the licensee

- a. with particularity of the breaches involved;
- b. that the Minister believes that, if true, these breaches merit termination of the license; and
- c. setting a time and place for a hearing upon the issue, not earlier than ten days from the date of delivery of the notice.

(3) The Minister shall publish notice of the hearing and its time and place in a newspaper of general circulation in the locality in which the licensee conducts electrical activities.

(4) At the hearing mentioned in Subsection (2),

- a. the Minister shall sit as adjudicating officer;
- b. a record shall be kept of the proceedings;
- c. ministerial officials or officials of EDL shall present evidence concerning the material breaches involved;
- d. the licensee shall have opportunity to present evidence rebutting the evidence of material breach; and

- e. employees of the licensee and members of the public affected by the licensee's activities under the license may introduce evidence or make oral or written presentations.

(5) Within ten days after the hearing, the Minister shall issue a decision on the issues involved, and publish it in a newspaper of general circulation in the vicinity in which the licensee carries on activities under the license.. In that decision, the Minister may --

- a. terminate the license;
- b. give the licensee a determinate period of time in which to remedy the defects found; or
- c. reject the allegations of material breach of the license.

(6) Within 30 days after the Minister renders a decision, pursuant to Section xx, a person aggrieved by the Minister's decision may appeal to a court with jurisdiction over the subject-matter.

#### 41. **Criminal offenses**

(1) A court shall find a person who without legal right (the proof of which shall lie on that person) intentionally diverts electric current, or knowingly uses current wrongfully diverted, guilty of an offense and sentence the offender as for theft.

(2) A court shall find a person who without legal right (the proof of which shall lie on that person) recklessly damages or interferes with apparatus for generating, transmitting or supplying



electricity guilty of an offense, and shall sentence the offender to not more than three years imprisonment or a fine not in excess of Kxxxx.

(3) A court shall find a person who knowingly violates this Act or an order or regulation made under it guilty of an offense, and shall sentence the offender to not more than three years in prison or a fine not n excess of Kxxxx.

(4) A court shall find a person who recklessly violates this Act or an order or regulation made under it guilty of an offense, and shall sentence the offender to not more than one year in prison, or a fine not in excess of Kxxxx.

(5) If a court finds that an offender committed an offense mentioned in this Section while serving as chief executive officer of a corporation, in addition to finding the offender guilty, the court shall find the corporation guilty of the offense, and sentence the corporation to a fine.

(6) If a court finds that an offender committed an offense while serving as an employee of a corporation, and that the corporation retained the employee in its employee knowing of the offense without reporting it to the Minister or to another relevant public official, the court shall find the corporation guilty of the offense and sentence the corporation to a fine.

#### **42. Appeals to the Minister**

(1) A person aggrieved by a decision of the Minister may petition the Minister to reconsider the decision.

(2) Except as set forth in subsection (3), at least thirty

days after giving public notice of hearing and notice by mail to all stakeholders with a significant interest, to the Commissioner and to the Electricity Public Advocate, the Minister shall hold a public hearing on the petition.

(3) The Minister shall make a record of that hearing.

(4) After the hearing the Minister shall promptly decide upon the petition in writing and giving reasons for the decision.

**43. Appeals from a Decision of the Minister Made under Article 42.**

(1) A person aggrieved may appeal a decision made by the Minister pursuant Article 42 to a court of appropriate jurisdiction.

(2) On that appeal, the court may --

- a. affirm the Minister's decision; or
- b. reverse the Minister's decision on grounds of bias or corruption, manifest illegality, or that the record contains no evidence to support the Minister's decision; or
- c. if the court finds that the record contains no evidence to support the Minister's decision, return the matter to the Minister for further consideration and evidence.

**PART V**  
**MISCELLANEOUS AND CONCLUDING PROVISIONS**

**CHAPTER XV. TRANSITIONAL AND CONSEQUENTIAL PROVISIONS**

**44. Transitional Provisions.**

Regulations made under previous mining laws or decrees remain

in force until amended.

**45. Consequential provisions**

(1)The following Acts are amended or repealed as indicated:

a. xxxx

b. xxxx

CHAPTER XVI. MISCELLANEOUS PROVISIONS

**46. Definitions**

[To be completed]

**47. Effective Date**

This bill shall come into force ....xxxx.