

LAWS OF SOUTHERN SUDAN

**THE SOUTHERN SUDAN ELECTRICITY
CORPORATION
ACT, 2011**

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**LAWS OF SOUTHERN SUDAN
THE SOUTHERN SUDAN ELECTRICITY CORPORATION
ACT, 2011**

In accordance with the provisions of Article 59 (2) (b) read together with Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan hereby enacts the following-

**CHAPTER I
PRELIMINARY PROVISIONS**

1. Title and Commencement.

This Act may be cited as the “Southern Sudan Electricity Corporation Act 2011” and shall come into force on the date of its signature by the President.

2. Repeal and Saving.

Any provisions of any existing Legislation which are governed by this Act are hereby repealed; provided that, all proceedings, orders and regulations taken or made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in full force or effect, until they are repealed or amended in accordance with the provisions of this Act.

3. Authority and Application.

- 1 This Act is drafted in accordance with the provisions of Articles 146(1), 38(2) and 55, and paragraphs 9 and 19(1) of Schedule B and paragraph 15 of Schedule D of the Interim Constitution of Southern Sudan 2005, which grant the Government of Southern Sudan the authority to establish such institutions and authorities compatible with its powers it deems necessary to promote the welfare of its people, good governance and justice and the authority over the provision of electricity.
- 2 The provisions of this Act shall be applicable throughout the territory of Southern Sudan.

4. Purpose.

The purpose of this Act is to provide for the establishment and governance of the Southern Sudan Electricity Corporation, responsible for the expansion, management and operation of the Southern Sudan electricity grid comprising generation and transmission network and sale in bulk of quality, reliable and cost-effective electricity to electricity distributors within Southern Sudan.

5. Interpretation.

In this Act, unless the context otherwise requires the following words and expressions have the meaning assigned to them respectively-

"Area" means any area of the Corporation in any of the States of Southern Sudan and any other area determined by the Board of Directors;

"Assembly" means the Southern Sudan Legislative Assembly;

"Authority" means the Southern Sudan Electricity Regulatory Authority;

"Board" means the Board of Directors of the Corporation for the administration of the Corporation established in accordance to the provisions of section 10 of this Act;

"Bulk Supply" means the supply of electrical energy by a Licensee to another Licensee for the purpose of enabling the supply of electrical energy to consumers;

"Bulk Supply Tariff" means the tariff which is for the provision of electricity and services to the customer at the rate which is fixed and determined in accordance with the provision of section 13(g);

"Chairperson" means the chairperson of the Board of Directors of the Corporation;

"Consumer" means any person supplied or entitled to be supplied with electricity but not a Customer;

"Corporation" and "SSEC" means the Southern Sudan Electricity Corporation established in accordance with the provisions of Section 6;

"Customer" means a person provided with Bulk Supply in accordance with an agreed contract;

"Distribution" in relation to electricity, means the transportation of electricity to any premises by means of an electricity network of which the voltage line consists (wholly or mainly) of electric lines with a nominal voltage of not more than 33 kilovolts or such other voltage as the Authority may direct, and distribute shall be construed accordingly;

"Distribution Network" means a network of electrical power through low and medium voltage lines and its supplements;

"Electricity Distributor" means any person responsible for electricity Distribution and supply licensed by the Authority in a particular area;

"Electricity Provider" means a person engaged in the supply of electric power;

"Executive Management" means the primary implementing authority of the Corporation, responsible for the daily transactions of the Corporation established in accordance with the provisions of section 15 of this Act;

"Financial Year" means the twelve (12) months which commences from the first of January of every year and ends on the thirty-first of December in the same year;

"General Manager" means the General Manager of the Corporation appointed pursuant to this Act;

"Generation" means the production of electricity power;

"Grid" means the interconnected electricity generation and transmission network in Southern Sudan;

“Independent Power Producer” means a privately-owned power producer, who owns or operates facilities for generation of electrical energy pursuant to a generating licence issued by the Authority;

“Legal Advisor” means the legal advisor who is assigned to advise the Southern Sudan Electricity Corporation on legal matters by the Ministry of Legal Affairs and Constitutional Development;

“Licence” means a Licence granted by the Authority under the Electricity Law Act;

“Licensee” means a person to whom a Licence has been granted by the Authority under the Electricity Law;

“Measurement Instrument” means any instrument or meter or any other authorized method for measuring the consumption of electrical power or electrical energy at various voltage level;

“Minister” means the minister responsible for electricity;

“Ministry” means the ministry responsible for electricity;

“Power Grid” means any infrastructure, or power generation stations or transmission lines or substations or distribution network or generators or equipment or instruments or tools used for electrical energy generation or supply, distribution, transformation and control therein;

“Power Generation Station” means any station for production of electrical energy, and it includes the generators, foundations, Lands and the buildings used for that purpose;

“Power System” means the instruments, machines, generators, transformers, transmission and distribution lines, switch and control gears, conductors and any other instruments or equipment used in the generation or distribution or use of electricity;

“President” means the President of the Government of Southern Sudan;

“Secretary General” means the Secretary General of the Board of the Corporation appointed in accordance with the provisions of section 21 of this Act;

“State” means any of the ten Southern Sudan states established by the Interim Constitution of Southern Sudan, 2005; and

“Transmission” in relation to electricity, means the transportation of electricity from a generating station to a substation, from one generating station to another or from one substation to another by means of an electric network of which the voltage line consists (wholly or mainly) of electric lines with a nominal voltage of not less than 33 kilovolts or such other voltage as the Authority may direct.

CHAPTER II THE CORPORATION

6. Establishment of the Corporation.

- (1) There shall be established in Southern Sudan an independent corporation to be known as the “Southern Sudan Electricity Corporation” which shall be a body corporate with perpetual succession and a common seal and logo and may sue or be sued in its corporate name.
- (2) The headquarters of the Corporation shall be in the capital of Southern Sudan, and it may upon the approval of the Minister, when deemed appropriate and

necessary, establish subsidiary offices in any State or county or in any other area inside or outside Southern Sudan according to the needs thereof.

- (3) The Corporation shall be impartial in the performance of its functions and responsibilities and exercise of the powers and shall be accountable to the President and the Southern Sudan Legislation Assembly through the Minister.

7. Objectives of the Corporation.

The Corporation shall perform and exercise its functions and powers to realize the following objectives—

- a) develop a medium- and long-term electric power generation and transmission plans to assure reliable and affordable electricity service for the major population centers of Southern Sudan;
- b) the efficient and effective development, operation and maintenance of power generation and transmission systems in Southern Sudan;
- c) to achieve financial performance targets as established by the Board; and
- d) Any other objectives required by the nature of its activities or the Minister.

8. Functions and Powers of the Corporation.

- (1) The Corporation shall in achieving its objectives referred thereunder the provisions of section 7 above, shall set up and manage electric power generation and transmission facilities in accordance with the electricity policy of the government of Southern Sudan and any other laws governing the sector.
- (2) Without prejudice to the generality of the provisions of subsection (1) above, the Corporation shall perform and exercise the following functions and powers—
 - a) generation of electrical energy, transmission and sale in bulk to Electricity Distributors in accordance with Bulk Supply agreements as approved by the Authority;
 - b) employment of competent staff in accordance with the provisions of this Act and in conformity with the civil service Act.
 - c) establishment of training and capacity building centres for use by Corporation staff and Electricity Distributors as approved by Corporation from time to time;
 - d) provide training and capacity building services to electric utility personnel and electric utility contractors, all of whom will be required to reimburse the Corporation for the cost of training and capacity building services;
 - e) purchasing of electricity from Independent Power Producers, transforming it and transmitting it for sale to Electricity Distributors;
 - f) promotion of electricity interconnection with neighbouring countries;
 - g) Planning, designing constructing and operating power plants and networks; and
 - h) Concluding contracts with any person in accordance with the provisions of the law on procurement.
- (3) Notwithstanding the provisions of subsection (2)(a) above, the Corporation may, at the discretion of the Minister, continue Distribution of electricity to Juba, Malakal and Wau and enter into partnerships with States to distribute

electricity, until such time as Electricity Distributors, duly licensed by the Authority are established to serve these areas.

CHAPTER III GOVERNANCE OF THE CORPORATION

9. Structures of the Corporation.

The Corporation shall consist of the following Government structures—

- a) The Board; and
- b) The Executive Management.

10. Establishment, Composition and Tenure of the Board.

- (1) *Establishment*- The Corporation shall have a Board to be entrusted with and to undertake the management of its affairs and to perform and exercise the functions and powers of the Corporation and shall be under the supervision of the Minister.
- (2) *Composition and Appointment*- The members of the Board shall be appointed and removed by the President upon recommendation of the Minister and shall compose of not more than eleven (11) members.
- (3) *Tenure*— The tenure of the Board shall be five years, commencing from the date of its establishment, and may be reappointed for another similar subsequent tenure thereof.

11. Functions and powers of the Board.

- (1) The Board shall be responsible for preparing a general policy for the Corporation, supervising its work and endeavoring to achieve its objectives.
- (2) Without prejudice to generality of subsection (1) above, the Board shall perform and exercise the following functions and powers—
 - a) approve the annual budget of the Corporation for submission by the Minister to the budget sector working group;
 - b) make necessary decisions on project proposals and recommendations aimed at promoting the activities of the Corporation;
 - c) approve the administrative and organizational structure of the Corporation and amend it when necessary, subject to the Public Service Act and regulations;
 - d) approve contracts to perform the Corporation's projects;
 - e) examining reports which evaluate the performance of the Corporation;
 - f) approving annual plans and programs in accordance with the approved budget therein and approving the administrative plans and employment; and
 - g) Formation of any committee or committees for its assistance in performing of its functions and shall determine its functions and its powers.

12. Meetings and Quorum of the Board.

- (1) The Board shall convene its ordinary meeting once every month, upon the invitation of the chairperson, and the required quorum shall be attained by simple majority number of the members (50 +1), and shall convene the extraordinary meeting at any time, upon the request of the chairperson and or reasonable number of the members, on emergency and special matters.
- (2) If the quorum referred thereunder the provisions of subsection (1) above cannot be attained, the meeting shall be adjourned and subsequent meeting is scheduled to convene within a period of one week from the date of the adjourned meeting, and shall convene with any number of the members present, provided that sufficient notice and reasonable time have been given thereof.
- (3) The decisions and resolutions of the Board shall be taken and or made by the simple majority votes of the members present, and in case of equal votes, the chairperson shall have the casting vote.

13. Remuneration of the Board Members.

The financial entitlements and or remunerations of the members of the Board shall be determined by the Minister in accordance with Civil Service laws and Regulations and upon recommendation of the Board.

14. Disclosure of Interest.

Any member of the Board having a direct or indirect interest in any matter or proposal before the Board for consideration thereon, shall disclose to the Board the nature of the interest that connects him or her to such matter, or proposal, and shall not participate in deliberation, or decision passed by the Board concerning the same subject matter.

**CHAPTER IV
THE EXECUTIVE MANAGEMENT**

15. The Establishment of the Executive Management.

- (1) There shall be established within the Corporation and implementing organ to be known as the Executive Management and shall be the primary implementing authority in discharge of the daily transactions and operations of the Corporation.
- (2) The Executive Management shall be headed by the General Manager as the Chief Administrator, who shall be under the direct supervision of the Board.
- (3) The Executive Management shall compose of officials to be selected from among persons of high technical and managerial capacity who shall be appointed and removed by the resolution of the council of Ministers upon the recommendation of the Minister.

16. Tenure of the Executive Management.

- (1) The tenure of the General Manager and the Secretary General shall be five (5) years and may be renewable for another similar subsequent period.
- (2) The status of the General Manager shall be determined by the Minister on recommendation of the Board of Directors and approved by the Council of Ministers.

17. Appointment of the General Manager.

The General Manager shall be appointed and may be removed by the President upon the recommendation of the Minister. He/she and may be reappointed for another similar subsequent term.

18. Eligibility for the Appointment.

Any person seeking appointment, to serve as the General Manager, shall fulfill the following eligibility requirements—

- a) Be a Southern Sudan citizen;
- b) Be of sound mind and high character;
- c) at least of thirty years of age;
- d) Not an undischarged bankrupt or insolvent;
- e) Not convicted of an offence involving dishonesty or moral turpitude for the last five years; and
- f) Possess the skills and knowledge relevant to the position.

19. Removal and Resignation of the General Manager.

- (1) The General Manager may be removed from office by the President upon the recommendation of the Minister, on the grounds of professional incompetence or misconduct.
- (2) Without prejudice to the generality of the provisions of subsection (1) above, the General Manager may be removed in any or more of the following situations—
 - a) is an undercharged bankrupt or has made any arrangement with his creditors;
 - b) is found or declared to be of unsound mind by competent medical authority;
 - c) Incompetence and inefficiency;
 - d) gross misconduct and or misbehavior;
absence without permission or sufficient cause from three consecutive
 - e) meetings of the Board;
 - f) conviction of an offence involving dishonesty, fraud or moral turpitude; or
 - g) Death.
- (3) The General Manager may resign from the Corporation upon the delivery of one month's notice in writing to the President through the Minister.

- (4) When the General Manager vacates office by death, resignation or other causes, the Minister shall provisionally appoint suitable person to act in the position until the new General Manager is appointed in accordance with the manner set forth thereunder the provisions of sections 17 and 18 of this Act.

20. Functions and Powers of the General Manager.

- (1) The General Manager shall be the chief official and answerable to the Minister on the administration of the Corporation in accordance with the policies of the Board and its directives.
- (2) The General Manager shall be responsible for executing the general policies of the Corporation, supervising its work, endeavoring to achieve its purposes and exercising its powers on a sound and appropriate basis.
- (3) Without prejudice to the generality of the provisions of subsections (1) and (2) above, the General Manager shall perform and exercise the following functions and powers—
 - (a) Prepare the program and detailed plans for development and improvement of the Electricity service in the Corporation and present it to the Board for approval;
 - (b) implement the policies and programs passed by the Board;
 - (c) report regularly to the Board on the affairs of the Corporation;
 - (d) oversee development, operation and maintenance of electric power generation plants and transmission systems owned by or assigned to the Corporation;
 - (e) borrow moneys or acquire special pledges with internal loans upon the approval of the board and the Minister and the Minister responsible for Finance and Economic Planning;
 - (f) supervise and submit regular operating reports that document the Corporation's performance for presentation to the Board and to the Authority;
 - (g) propose Bulk Tariffs to be presented to the Board for its consideration and submission to the Authority for approval;
 - (h) confirm the accuracy and improvement of work through specialized administration of the Corporation;
 - (i) carry out the development works in accordance with the approved budget therein;
 - (j) supervise the specialized administration in the Corporation;
 - (k) coordinate the Corporation's communication with the Minister and other official bodies in Southern Sudan to acquire any urgent assistance for the needs of the Corporation; and
 - (l) undertake such other activities as may be appropriate necessary for the efficiency and effective management of the Corporation.

21. Appointment of the Secretary General.

- (1) The Board shall appoint its Secretary General from among the senior officials of the Corporation and may remove him from this position in accordance with the provisions of this Act.
- (2) The Secretary General of the Board shall be answerable in performing his duties to the Board and the General Manager of the Corporation.

22. Functions and Duties of the Secretary General.

The Secretary General shall prepare the agenda, keep correspondences, record the minutes of the meetings of the Board, and notify the concerned authorities of the decision taken or made by the Board and shall brief the Board on the progress of their implementations.

23. Appointment of Employees and Support Staff.

The General Manager shall, within the limits of the financial resources and the budget at his disposal, appoint and dismiss employees and support staff on such terms and conditions of service to be determined in the regulation, in conformity with the provisions of the *Southern Sudan Civil Service laws* and the regulations.

24. Organizational Chart and Support Staff.

- (1) The General Manager shall annually prepare a detailed organizational chart reflecting the Corporation's staffing requirements for the next Financial Year, which shall be approved by the Board.
- (2) The organizational chart shall be developed in consultation with the Ministry responsible for Civil Service and Labour and shall take into consideration the needs of the Corporation and its financial limitations.

**CHAPTER V
FINANCE, ACCOUNTS AND AUDIT**

25. Operational Principle.

The Corporation shall manage its finances in accordance with sound financial principles and best practices and shall in that respect ensure that its revenues are sufficient to meet its expenditures, including payment of operational cost.

26. Sources of Funding.

The Corporation main sources of funding may accrue and/or be obtained from the following sources—

- (a) revenues collected from its transactions and operations;
- (b) proceeds accrue from investment;

- (c) appropriated budget by the Government to the Corporation;
- (d) grants, donations and bequests from local or foreign bodies;
- (e) financial support from international donor agencies; or
- (f) any other lawful sources that the corporation may receive and/or approve.

27. Utilization of the Funds.

The Corporation shall use the financial resources and revenues collected from the sale of electricity in bulk and retail sales to finance all operating, administrative, commercial, and expenses related to the plant maintenance and or any accidental expenditures resulting from its transactions and operations.

28. Annual Budget.

The Corporation shall prepare and submit for approval an annual budget, in accordance with the Government budget process, for the following financial year, and shall be subject to the review, revision and approval in accordance with the establish public financial management procedures of the government.

29. Borrowing Powers.

- (a) The Corporation may obtain loans or other credit facilities from any person, organization or institution for the purposes of meeting its obligations.
- (b) No loan or credit facility shall be obtained by the Corporation pursuant to subsection (1), above, without the prior approval of the Ministry of Finance and Economic Planning.
- (c) Loan and credit facilities shall be on such terms and conditions which are commensurate with the sound financial practices and any regulations or policies governing borrowing by Government entities.
- (d) The provisions of this section do not relieve the Corporation or lender from obtaining any other approvals that may be required under any other applicable law.

30. Bank Accounts.

- (1) The Corporation shall upon the approval of the Board, open and maintain bank accounts at the Bank of Southern Sudan and or at any recognized Commercial Bank operates within Southern Sudan as may be appropriate and necessary for the performance of its functions and duties.
- (2) The General Manager shall ensure that any money received by or on behalf of the Corporation is safely kept and deposited in a bank account as soon as practicable.
- (3) The General Manager shall ensure that no money is withdrawn from, or paid out of, any of the bank accounts of the Corporation without proper authorization, and who shall be the primary signatory to its cheque.

- (4) The General Manager may upon the approval of the Board delegate in writing any and or more of the responsibilities set forth thereunder the provisions of subsections (2) and (3) above, when deemed appropriate and necessary.

31. Surplus Funds.

The Corporation may upon the approval of the Board invest its Surplus funds which are not immediately required for any purpose provided under the provisions of this Act, after consultation with the Ministry of Finance and Economic Planning in accordance with the rules and regulations governing the investment of Surplus funds set forth under the provisions of established public financial management and accountability laws and procedures of the government of Southern Sudan.

32. Accounts.

- (1) The General Manager shall keep and maintain proper books of accounts and records of all funds received and spent by it during the current financial year.
- (2) The General Manager shall prepare and submit a financial report to the Board, not later than three months from the end of the previous financial year. The report shall include—
 - (a) financial statement of income and expenditure during the financial year;
 - (b) a statement of assets and liabilities of the Corporation for the financial year, prepared in accordance with generally accepted accounting principles and submitted to and audited by the Auditor-General; and
 - (c) a Financial Audit Report.

33. Audit.

- (1) The General Manager shall ensure that, for each financial year the accounts of the Corporation are audited by the Auditor-General or such any other chartered and certified Audit Firm and or External Auditor to be approved by the Auditor-General in writing and authorised by the Board.
- (2) The Board shall ensure that within four months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, in accordance with the provisions of section 31 above, is submitted to the President and the Ministry responsible for Finance and Economic Planning.
- (3) The Auditor-General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of the Corporation.

34. Annual and Other Reports.

- (1) The Corporation shall in addition to the Financial Audit Report, required under the provisions of section 31 above, and upon the request of the

Ministry of Finance and Economic Planning, prepare an Annual Report of its activities during that financial year, and shall include *inter alia* the following—

- (a) a statement of financial performance and of cash flows;
 - (b) the budget for the coming financial year;
 - (c) a description of the activities of the Corporation during the previous year;
 - (d) An analysis of the extent to which it has met its objectives of the previous year;
 - (e) An evaluation as to the extent to which the advice and directives of the Corporation have been complied with;
 - (f) Its objectives for the coming year; and
 - (g) Any recommendations on the matters governed by this Provisional Order.
- (2) The Corporation shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Corporation fails to distribute the Annual Report, it shall be distributed by the Ministry of Finance and Economic Planning.
- (3) The Board shall submit to the President and the Assembly through the Minister such other reports on its activities or any other matter that may from time to time be required.

CHARTER VI MISCELLANEOUS PROVISIONS

35. Confidentiality.

- (1) Any information from which an individual or body may be identified and that is acquired by the Corporation in the course of the performance of its functions or the exercise of its powers thereunder the provisions of this Act or any other applicable law shall be considered confidential by the Corporation, its Board and its employees.
- (2) No information of a type referred thereunder the provisions of subsection (1) above, may be disclosed without the consent of every individual who, and everybody which, can be identified from that information, except to the extent that its disclosure is expressly authorized or required by or under this Act or any other applicable law or where it appears to the Corporation to be necessary—
- a) to enable the Corporation to perform any of its functions and exercise any of its powers under this Act or any other applicable law;
 - b) in the interests of the investigation, detection, prevention or prosecution of crime;
 - c) in connection with the discharge of any international obligation to which Southern Sudan may from time to time be subject;
 - d) to assist, in the public interest, any authority that appears to the Authority to exercise, in a place outside Southern Sudan, functions

corresponding to some or all of those of the Authority within or outside Southern Sudan; or

e) to comply with the directions of any division of any Court.

(3) Without prejudice to the provisions of sub-sections (1) and (2) above, any information communicated to the Corporation by a committee of the Government shall be considered as confidential if that committee of the Government requests, and shall be kept confidential by the Corporation and its members and employees; and no such information shall be disclosed except in compliance with the direction of any division of any Competence court.

(4) A person shall not, for a period of two (2) years after he ceases to be a member of the Corporation, shall not acquire, hold or maintain, directly or indirectly, any office, employment, consultancy arrangement or business in Southern Sudan where he may be liable to use or disclose information acquired by him or her in the exercise, performance and discharge of the powers, duties and functions of the Corporation, and if he acquires any such interests involuntarily or by way of succession or testamentary disposition, he shall divest himself or herself of such interest, within two months of the acquisition of such interest.

(5) Whoever discloses information or causes or permits the disclosure of information in a manner which he knows or has reasonable cause to believe that such disclosure or permissions is in contravention of the provisions of this section shall be guilty of an offence and upon conviction shall be liable to fine not exceeding Ten Thousand Sudanese Pounds (SDG 10,000) or to imprisonment for a period not exceeding six (6) months or both.

36. Liability Exemption.

No Member of the Board, officer or employee of the Corporation, shall be liable for any Commissions or omission committed in the exercise or performance of his or her functions and duties with the Corporation; *provided that* such commissions or omissions are committed in good faith.

37. Liquidation of the Corporation.

The Corporation shall not be liquidated except in accordance with a resolution of the Council of Ministers.

38. Supervision of the Corporation.

The Minister shall supervise the Corporation and may whenever deemed necessary and appropriate issue general or specific directives to the Board with respect to the business of the Corporation provided that such directives shall not be inconsistent with the provisions of this Act, and the Board shall comply thereof.

39. Regulation.

The Minister, may upon the recommendation of the Board, make such rules, regulations and procedures as may be necessary and appropriate for the effective and efficient implementation of the provisions of this Act.

Assent of the President of the Government of Southern Sudan

In accordance with the provision of Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, I, Gen. Salva Kiir Mayardit, President of the Government of Southern Sudan, hereby Assent to the Southern Sudan Electricity Corporation Act, 2011 and sign it into law.

Signed under my hands in Juba, this ^{7th}-----day of the month of ^{July}-----
-----in the year 2011.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a horizontal line through it, and the letters 'KIR' written below it.

**H.E. Gen. Salva Kiir Mayardit
President
Government of Southern Sudan
GoSS/ Juba.**