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# Extension of Electricity Grid in Tanna and Malekula Concessions

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Independent review and assessment of project  
proposals for the Government Of Vanuatu

18 July 2011

On 7 July 2011 the Director General, Ministry of Lands Geology Mines and Water Resources requested the Authority review and assess the project proposals for the extension of electricity grids in Tanna and Malekula concessions. This paper sets out the Authority's findings and recommendations to Government following its review and evaluation of information provided to the Authority.

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## 1.0 Executive Summary

In accordance with the *Utilities Regulatory Authority Act No 11 of 2007* and its Charter of Consultation and Regulatory Practice the Authority presents its report on the project proposals for the extension of electricity grids in Tanna and Malekula concessions.

This report sets out the Authority's findings and recommendations in response to the Ministry of Lands Geology Mines and Water Resources request to provide advice on: cost implications on the tariff, UNELCO's 5 year capital expenditure plan; the legal implications in relation to the concession terms, Electricity Supply Act, Contract and Tenders Act; value for money assessment of the proposals (specifically regarding customer connections); and any other relevant information that the Government needs to be aware of in relation to the electricity grid extensions in Tanna and Malekula.

The Authority reviewed various submissions provided to it by UNELCO and the Government, specifically the *Governments Contract and Tenders Act No 10 of 1998*, *Electricity Supply Act No 21 of 2000*, the concession contracts for Tanna and Malekula Islands; Tanna and Malekula project proposals; and draft addendums for the extension of concession boundaries.

A review of the legislation, including submissions provided by the Government and UNELCO, highlighted material non-compliances with the Governments Contract and Tenders Act. The Authority is concerned that such non-compliance with the legislation will result in the addendum being void.

The Government's power to competitively tender the works has been eroded by the granting an extension of concession boundaries to UNELCO.

UNELCO's submissions did not fully address the economic, technical and financial aspects of the projects and did not substantiate its claims under the tariff.

The project proposals did not address key issues such as the additional costs to be incurred by existing and future customers and the charges that will be incurred by future customer who may request an electricity connection.

In its submission, UNELCO failed to address other key issues, specifically how an open, transparent and competitive tender would be implemented by the European Union for the proposed works in the Tanna and Malekula concession.

The lack of supporting material received from UNELCO raises several major concerns, in particular project scope and costs, project timeframe, costs per customer, any additional costs the customers may incur and the number of customer likely to be connected and/or benefit as a result of this work.

UNELCO has not fully informed the Government and the public of UNELCO's commitment to extend the networks; it has not appropriately advised the government and public what is being covered by the tariff; and has failed to substantiate its claim for revenue paid by the tariff to cover these investments.

## 2.0 Introduction

The Utilities Regulatory Authority (the Authority) was established on the 11 February 2008 under the *Utilities Regulatory Authority Act No 11 of 2007* (the Act).

The Act established the Authority as an independent economic regulator for pricing, access, standards and monitoring of concession agreements.

The Authority was established to provide continued and expanded support to the Vanuatu Government's microeconomic reform program. This program was designed to improve the efficiency and competitiveness of Vanuatu's economy through the reform of the electricity, water and other current and former government business enterprises.

The Government perceived the establishment of an independent regulatory body as necessary to ensure that the benefits of the industry structuring and concession arrangements were passed on to household, commercial and industrial customers.

The primary objective of the Authority is *'improve access to electricity services and to protect the long-term interests of Vanuatu's consumers with regard to the price, quality and reliability of electricity services.'*

This objective is central to the framework of economic regulation that facilitates efficiency and financial viability of regulated utilities, prevents misuse of monopoly power and ensures that customers benefit from the gains from regulation and efficiency.

The functions of the Authority, as expressed in the Act under which it is constituted, are:

- to exercise the functions and powers conferred by this Act or by any other Act in furtherance of the purpose of this Act;
- to provide advice, reports and recommendations to the Government relating to utilities;
- to inform the public of matters relating to utilities;
- to assist consumers to resolve grievances;
- to investigate and act upon offences under this Act ;
- when requested by the Minister to do so, to conduct an inquiry into any systemic reliability of supply issues related to a regulated industry or other regulated service specified by the Minister in the request;
- to conduct public education programs for the purpose of promoting its objectives under the Act and the relevant legislation and in relation to significant changes in the regulation of a regulated industry;
- to advise the Minister on any other matter referred to the Authority by the Minister; and
- to administer and monitor compliance of Concession Agreements under the Act

In accordance with its Charter of Consultation and Regulatory Practice the Authority aims to be:

- independent, balanced and fair by ensuring its advice does not reflect undue influences and is consistent with its statutory objectives; and
- open and transparent by publishing its findings and recommendations.

### 3.0 Background

In February 2011, UNELCO wrote to the Minister of Lands Geology Mines and Water Resources (the Ministry) seeking an extension of the Tanna and Malekula concessions. In its letter, UNELCO stated (English translation provided by UNELCO):

*“As part of the future developments of electrical networks on the islands of Tanna and Malekula, it seems important to us that the perimeters of those concessions are extended to so that the new customers of those new extensions may benefit from the advantages arising from the concession contracts. This will allow the future customers to benefit from a similar tariff to the one applied for the existing concessions. The future customers would also benefit from the participation of UNELCO to the costs of the works, maintenance and cyclone.*

*The duration of the concessions would remain the same, only the perimeter would be amended.*

*Having regards to the economical and development challenges for the concerned populations, UNELCO offers to increase its participation towards the funding of those investments.*

*With regards to the Tanna project, UNELCO would cover the costs of the HV networks for the supply of energy to the airport and the college, up to an amount of fifty million vatu (VT50,000,000) in addition to its participation of 10 percent...*

*With regards to the Malekula project, based on the scenario of a transfer of funds from the European Union to fund the project of the coconut oil power stations, the networks from the existing UNELCO networks to the village of Vao. The participation of UNELCO would be sum of ten million vatu (VT10,000,000)...*”

On 29 June 2011, the Office of the Prime Minister wrote to the Ministry of Lands Geology Mines and Water Resources seeking agreement and sign-off on the “*extension of power/concession on Malekula and Tanna*” and that this be finalised no later than 7 July 2011.

On 4 July 2011, the Authority wrote to the Ministry setting out its concerns in relation to the electricity network extensions in Tanna and Malekula, the extension of the concession and issues surrounding UNELCO’s 5 year capital expenditure plans

On 7 July 2011, the Director General, Ministry of Land Geology Mines and Water Resources wrote to the Authority seeking advice on a number of matters relating to the extension of electricity grids in the Tanna and Malekula concessions.

In its letter the Ministry sought clarification and advice on the following matters:

- The cost implications on the tariff, UNELCO’s 5 year capital expenditure plan, etc;
- The legal implications in relation to the concession terms, Electricity Supply Act, Contract and Tenders Act etc;
- Value for money assessment of the proposals (specifically regarding customer connections); and

- Any other relevant information that the Government needs to be aware of.

In performing its functions, section 12(b) of the Act empowers the Authority to provide advice, reports and recommendations to the Government on matters relating to electricity matters.

On 8 July 2011, the Authority wrote to UNELCO requesting the following information:

- *Detailed technical drawings setting out the design and layout of the proposed extensions;*
- *Detailed breakdown of the costs, terms and conditions specified;*
- *Full description of the proposed works and development;*
- *Detailed material, equipment and plant list required to complete the works;*
- *Financing details of the project;*
- *The proposed time line and project plan;*
- *Any assumptions, exclusions or inclusions relating to the projects; and*
- *Any additional information that will assist the Authority in undertaking an independent and transparent review of the proposed works.*

The Authority requested that the above information be provided to it by close of business Wednesday 13 July 2011.

In its communication dated 13 July 2011, UNELCO sought to delay the provision of information to the Authority until 20 July 2011. The Authority subsequently replied, again requesting that the information must be provided by the due date.

The Authority noted that the information it requested should have been easily accessible. The relevant information regarding the proposals for grid extensions should have been made available to Government prior to any agreement being reached on the matter of grid extensions or extension of the concession boundaries.

On 14 July 2011, UNELCO submitted its response to the Authority, providing the project for the Tanna grid extension and information relevant to the Malekula works.<sup>1</sup> In its submission UNELCO provided the following information:

*“Tanna: We have been requested for more than 2 years by the Government (MPUI) in relation with European Union to consider the extension of the grid in order to cover the Airport and hotel for the promotion of tourism on this Island and we prepared several quotations. UNELCO committed to invest 50 million in order to build the main HV line from Loanatom to White Sand and including the TAFEA College in a first phase. These 50 million investments are included in the 5 years investment Distribution Master plan.*

*Malekula: A year and half ago, the then Minister of trade M. Sato Kilman asked to UNELCO to consider the option of transferring part of the amount of the Energy Facility I from EU dedicated to the construction of an oil mill with 4 stand alone generators for the villages of Wala, Orap, Lavalsal, Vao, for the construction of an HV distribution line from Norsup to Vao. The cost of these machinery is estimated at 750 000 Euros in the EU detailed financial model. The first estimated we did for the*

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<sup>1</sup> See Appendix, item 6 for project proposal and email correspondence submitted by UNELCO.

*extension of the grid was around 100 millions vatu. The advantages of this EU project variation are as follows:*

- *Guarantees the provision of electricity to the villagers targeted in the initial contract (villages of Orap, Lavalsal, Wala and Vao – i.e. approx. 660 families);*
- *Reliable supply 24/24 h to the targeted villages, not just a few hours a day as is the case with the pilot generation projects in remote areas, like the one in Port Olry.*

*The potential to include not just the four villages included in the original project, but also the people living between these villages, i.e. in excess of 2,300 households, which is more than our original project. The coverage of current needs but also future developments in the villages, bypassing the risks associated with technical and administrative self-management by each community, especially the problems relating to the payment of bills. Avoiding any ill-feeling on the part of those households situated between the villages because they cannot be supplied with low voltage.*

*Since then, the MALAMAP Province (who manages the EU funds) has approved the technical variation of the EF I project, the extension of the boundaries of the concession was granted yesterday. The Government is under preparation of the variation note on the project to be approved by the EU. UNELCO in its 5 years investment plan included 10 million representing its contractual participation to the extension of grid financed by EU. Detailed specification of the grid will be provided in due course by UNELCO, during the tender process according to EU rules.”*

On 14 July 2011, the Daily Post newspaper reported that the Government and UNELCO had signed an addendum to extend the concession area in Malekula Island in its article entitled “*Electricity goes to north east Malekula*”.

On 18 July 2011 the Authority provided its findings and recommendations to the Ministry of Lands Geology Mines and Water Resources. This report was also provided to the following stakeholders:

- Office of the Prime Minister
- Ministry of Infrastructure and Public Utilities
- Ministry of Finance and Economic Management
- Attorney General, State Law Office

## 4.0 Findings

### 4.1 Review Methodology

The Authority's approach and methodology in performing its review and evaluation was based on evidentiary material made available to it by UNELCO and Government.

The Authority considered the following legislation and agreements:

- *Utilities Regulatory Authority Act No. 11 of 2007*, specifically the powers and functions of the Authority regarding the provision of advice and recommendations to Government in relation to electricity matters;
- *Government Contracts and Tenders Act No 10 of 1998*;
- *Electricity Supply Act No 21 Of 2000*;
- Concession contract for the generation and public supply of electric power in Tanna Island;
- Concession contract for the generation and public supply of electric power in Malekula Island; and
- Draft Addendums to the concession contract of 14 July 2000 for the generation and public supply of electric power in Malekula Island

In addition the Authority reviewed the technical proposals submitted by UNELCO to the Ministry of Infrastructure and Public Utilities, namely:

- Electrification Project for Tanna presented by UNELCO on February 2011; and
- Malekula Island project estimate provided by UNELCO dated 29 April 2010

## ***4.2 Review Findings***

### **4.2.1 Legislative Requirements**

#### **Governments Contract and Tenders Act No 10 of 1998**

The proposals made by UNELCO sought to gain agreement from Government for the extension of the concession boundaries for Tanna and Malekula.

In accordance with the *Governments Contract and Tenders Act No 10 of 1998* the Authority notes that the following sections apply in relation to any variation to government contracts, specifically where there is an extension of the concession boundaries.

The Governments Contract and Tenders Act sets out the requirements and process to be undertaken for contracts that are entered into or varied by Government.

Before signing any contract or addendum the relevant Minister must not be in breach of the Governments Contract and Tenders Act specifically section 3(3). If this is not followed the contract will be void as set out under section 7.

The relevant sections are set out below.

#### ***“GOVERNMENT CONTRACTS***

*3. (1) Every Government Contract must be in writing.*

*(2) Subject to subsection (3), a minister, under this or any other Act authorizing him to do so, may enter into a Government Contract.*

*(3) Prior to entering into a Government Contract a minister must first:*

*(a) ensure the contract is consistent with Government policy;*

*(b) ensure the contract is fiscally responsible, prudent, cost effective, and is a necessary obligation for Government to assume;*

*(c) consult with the Director General and satisfy himself on reasonable grounds that the Government has or is likely to have the financial ability and resources to meet all of the obligations under the contract including future obligations;*

*(d) consult with and obtain the advice of the Attorney General or a legal practitioner approved by the Attorney General in writing, on the legal aspects, implications, and appropriateness of entering into the contract;*

*(e) ensure that no conflict of interest exists between a minister or the Council and the other party;*

*(f) use a competitive and transparent process when deciding who to award the contract to including where applicable, a tender process as may be prescribed by this or any other Act or regulation;*

*(g) make a written submission to Council which must include a copy of the proposed contract, the process followed, and comments on the proposed contract by, and under the signatures of, the Director General and the Attorney General or the legal practitioner. The Attorney General must certify that the procedures in accordance with this or any other applicable Act have been followed;*

*(h) obtain a Council minute approving the Contract.*

#### **EXECUTION OF GOVERNMENT CONTRACTS**

*4. (1) Every Government Contracts entered into under section 3 must be in the name of the Government of the Republic of Vanuatu represented by the responsible minister, and every document required to be signed evidencing the terms of the contract may be executed by the responsible minister on behalf of the Government.*

*(2) The terms of a Government Contract may be varied or discharged in the same way.*

#### **VALIDATION OF PRIOR CONTRACTS**

*5. All things lawfully done before the passing of this Act, will be deemed to have been validly and lawfully done under the authority of this Act and any contract entered into is ratified and confirmed.*

#### **APPLICATION OF ACT TO EXISTING ARRANGEMENTS**

*6. The provisions of this Act will apply to any arrangement to enter into a Government Contract which at the date of commencement of this Act has not been executed.*

#### **EFFECT OF GOVERNMENT CONTRACT ENTERED INTO IN BREACH OF THIS ACT**

*7. A Government Contract entered into after the commencement of this Act, which is in breach of the provisions of this Act, will be void, of no effect, and will not be binding on the State or the Government.”*

No evidence was provided to the Authority as to whether the process outlined in the Governments Contract and Tenders Act has been followed. The Authority is concerned that should the parties to a contract not comply with this section of the legislation, then any contract signed on behalf of the Government is void under section 7.

Further, as the extension of a concession area is likely to impact on future reviews with respect to regulated services provided by UNELCO including the customer tariff, the Authority will need to assess the validity of such agreements and if found to be void, the Authority may disregard them.

## **Electricity Supply Act No 21 of 2000 [CAP 65]**

The *Electricity Supply Act No 21 of 2000* provides for matters connected with the generation and supply of electricity at Port Vila and Luganville, and to other areas such as Tanna and Malekula.

The Electricity Supply Act allows for the Minister<sup>2</sup>, on behalf of the Government, to enter into an agreement granting a person the sole concession for the manufacture and supply of electricity within such areas outside of Port Vila and Luganville as are specified in the agreement for a specified period.

The Authority notes that this provision empowers the relevant Minister to issue any new concession to any person outside of the existing concessions boundaries. It is the Authority's view that this provision does not empower the Minister to amend, alter or vary the boundaries of an existing concession under contract. This is provided for under the Governments Contracts and Tenders Act as discussed above.

### **4.2.2 Concession Contracts**

Article 1 of the convention for Tanna and Malekula states that UNELCO: *"may supply electricity to consumers outside of the concession area, provided that such supply is not detrimental to the supply within the concession"*.

A similar provision is provided for within the Port Vila concession.<sup>3</sup>

There appears to be no reason why UNELCO is unable to provide electricity services outside of the concession without the requirement for an extension of the existing concession boundaries.

An extension of the network outside of the concession area **does not** require the existing concession boundaries to be extended or amended under the agreement.

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<sup>2</sup> Minister responsible for power; refer to section 1(A)(1)

<sup>3</sup> Section 3 clause 10 of the specification relating to the concession for the generation and public supply of electric power in Port Vila

### 4.2.3 Cost Implications

An important aspect of the tariff review undertaken by the Authority on behalf of the Government of Vanuatu was the provision of revenue and capital expenditure made to UNELCO over the regulatory period<sup>4</sup> for investments in generation and electricity network.

The tariff review was applied to the four concessions held by UNELCO at the time of the Authority's tariff decision in May 2010, namely Port Vila, Luganville, Tanna and Malekula Islands.

During the review process UNELCO failed to provide the Authority an approved capital expenditure "investment" plans (the Plan). However, in its decision, the Authority stated that *"the Authority's role is to test that costs and investments made by the utility are done at a reasonable cost level. To give UNELCO more guidance in this area the Authority, in consultation with stakeholders will work to define efficiency and prudence criteria and processes with which to test costs and investments against"*.<sup>5</sup>

In March 2011, the Authority published its Utilities Distribution Planning Guidance Paper. The paper sets out rules and general guidance for each utility on what and how things should be done without prescribing any preferences. The utility was given the discretion to justify the most appropriate manner of addressing its capital expenditure concern and investment plan.

UNELCO has not responded to the Authority's Guidance Paper and continues to be non-compliant. The following table sets out UNELCO's forecast revenue and capital expenditure approved under the tariff:

1. UNELCO's revenue (forecast) VUV					
2010	2011	2012	2013	2014	Total
2,892,832,715	2,969,561,668	3,035,615,257	3,174,901,627	3,289,843,949	15,362,755,215
2. UNELCO's CAPEX (Investments covered by the tariff)					
623,968,025	418,646,155	1,118,830,706	649,069,216	547,734,823	3,358,248,925

**[Note: It is important to be aware that UNELCO is currently receiving the above revenue from its customers through the new tariff.]**

The Authority continues to request from UNELCO its capital expenditure "investment" plan for the next 5 years.

<sup>4</sup> The regulatory period for this review is 5 years 2010 to 2014.

<sup>5</sup> The Authority published and issued to UNELCO its Utilities Distribution Planning Guidance Paper dated 18 March 2011.

The Plan informs the Government and the public of UNELCO's commitment to extend networks, ensure reliable and safe supply, increase quality and customer connections, which the tariff has allowed for over the next 5 years.

UNELCO has refused to provide the Authority its capital expenditure "investment" plan. The Authority is currently enforcing compliance in accordance with its Act.

A capital expenditure plan approved by the Authority will:

- Inform the government and the public of UNELCO's commitment to extend networks, ensure reliable and safe supply, increase quality and customer connections which the tariff has allowed for over the next 5 years;
- Inform the government and customers what their tariff is paying for;
- Advise the government and customers where their tariff is being spent;
- Require UNELCO to complete a plan to substantiate their claim for revenue paid by the tariff to cover these investments; and
- Indicate where and when future electricity investment is to be made in collaboration with the government's economic development goals.

Without the plan UNELCO fails to substantiate any revenue it has requested through the tariff. In its communication dated 14 July 2011, UNELCO stated that:

In relation to the Tanna project:

*"50 million investments are included in the 5 years investment Distribution Master Plan".*

The Authority notes that it has not cited or approved any such investment plan as UNELCO continues to refuse to provide it to the Authority.

In addition, the project proposal does not address the many questions raised in 4.2.4 below.

In relation to the Malekula project:

The information provided by UNELCO does not support a proper assessment of its project proposal. Its proposal did not address financial, economic and technical aspects of the project with sufficient rigor to enable the Authority to evaluate it on the basis of whether the project is the least cost technically feasible and prudent investment.

The information presented by UNELCO to the Authority did not provide:

- Detailed technical drawings setting out the design and layout of the proposed extensions;
- Detailed breakdown of the costs, terms and conditions specified;
- Full description of the proposed works and development;
- Detailed material, equipment and plant list required to complete the works;
- Financing details of the project;
- The proposed time line and project plan;

- Any assumptions, exclusions or inclusions relating to the projects; and
- Details regarding the projects inclusion into the Capital expenditure plan; and
- Any additional information that will assist the Authority in undertaking an independent and transparent review of the proposed works

UNELCO stated that *“in its 5 year investment plan included 10 million vatu representing its contractual participation to the extension of the grid financed by the European Union”*.

The Authority considers it inappropriate to pass through the tariff the costs and investments associated with this project on the basis that:

- A capital expenditure investment plan has not been provided and approved; and
- The project information submitted does not substantiate UNELCO proposals.

#### **4.2.4 Competitive Tender of Grid Extensions in Tanna and Malekula**

The Electricity Supply Act confers, inter alia, upon a concessionaire certain powers *“to acquire, construct, operate and control electric lines and works and to generate, supply and sell”* electricity within the concession boundaries.<sup>6</sup>

Although the Act confers these powers to a concessionaire, the Authority is of the view that such powers are not exclusive. The Act provides the concessionaire exclusivity **only** to manufacture and supply electricity. Under these circumstances, this would have allowed the Government to competitively tender the grid extension works.

However, the Government’s power to competitively tender the works is removed by the granting of an extension of the concession to UNELCO. This is made clear in the concession contracts for Tanna and Malekula in Article 1 section 1.01, clause 2 which states:

*“...Therefore, the Concession shall confer upon the concessionaire the exclusive right, within the said limits, to construct and to maintain on or under public thoroughfares and their easements, any lines, constructions and facilities...”*

UNELCO’s request to extend the boundaries of the existing concession is in the Authority’s view intended to remove the Government’s power to competitively tender the grid extension works and maintain its exclusivity and monopoly power.

UNELCO claimed that *“detailed specification of the grid would be provided in due course, during the tender process according to European Union rules”*.

While supportive of donor facilitation of energy access programs in rural areas, the Authority is not convinced that, under the circumstances detailed above, such a tender will be open, transparent and competitive.

As the Government has agreed that an extension of the concession boundaries be granted to UNELCO, any such tender is now inconsequential. However, if the signed addendum is found to be void, this will return to the Government, its right to competitively tender the works.

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<sup>6</sup> Section 3 and section 5 of the Act

Nonetheless, the Authority notes that under the Government Contract and Tenders Act, any such agreement that is found to be void will be disregarded by the Authority in future reviews.

The Authority is concerned that an appropriate level of scrutiny was not undertaken by the government to inform itself of the technical, economic and financial implications of the proposed works and subsequent extension of the concession boundaries. No evidence was provided that suggests advice was sought from the Authority or from relevant departments within the Ministry of Lands Geology Mines and Water Resources, including the Ministry of Finance and Economic Management.

## 4.2.5 Technical Economic Financial and Contractual Review

To assist the Authority in effectively assessing the above project proposals, the Authority generally seeks the following technical, financial, economic and contractual clarifications for each project proposals presented to it.

The request for information differs for each project depending on the circumstances.

Generally the following information is required:

*Project Description:* Detailed description of the works to be carried out

*Interested Parties:* The Authority seeks details of the party(s) requesting the proposed project

1. Request for further technical clarifications:
  - A detailed Project Plan specifying scope of work, resourcing and procurement requirements, quality plan, cost breakdown including resourcing and duration, any contingency allowed;
  - Detailed design and construction drawings setting out the new installation and location of relevant electrical plant and equipment.
2. Request for further financial clarifications:
  - For any works subcontracted to a third party, a written quotation or related documents from the third party involved should be attached with the proposal clearly indicating related cost estimates for the work;
  - Detailed breakdown of **Miscellaneous Cost** stated under the **Material Costing** in the **Estimated Cost** list for the works.
  - Detailed values in the quantity of the Quotation to be specified to enable the URA to assess the per unit costs and total cost of the works.
3. Request for further economic clarifications:
  - The number of customers likely to be connected and/or benefit as a result of this work. The Authority wishes to assess the likelihood of people actually paying to get connected as well as their willingness to pay for electricity consumption.
  - What are the additional costs, if any, which the customers will be required to pay after the project has been completed?
  - Are there any business proposals within the proposed project area that will benefit locals as a result of the provision of electric service to the area?
  - What is the unit cost per customer?
4. Request for further contractual clarifications

- Clarify any surcharges to be applied to the project.
- Contract pricing schedules to be provided so as to mitigate any potential variations to the cost of the project.
- Supply of goods or services from external parties and subsequent price variations.
- Impact of Land title matter to be mitigated prior to project commencement.

The Authority wrote to UNELCO requesting information relating to:

- Detailed technical drawings setting out the design and layout of the proposed extensions;
- Detailed breakdown of the costs, terms and conditions specified;
- Full description of the proposed works and development;
- Detailed material, equipment and plant list required to complete the works;
- Financing details of the project;
- The proposed time line and project plan;
- Any assumptions, exclusions or inclusions relating to the projects; and
- Any additional information that will assist the Authority in undertaking an independent and impartial review of the proposed works.

#### **4.2.5 Proposed extension of concession boundaries**

The Authority raises a number of issues and concerns in relation to the proposed extension of concession boundaries and development of the grids in Tanna and Malekula Islands.

The Authority notes that in its submission to the government, UNELCO provides no justification for the extensions of the concession area.

In its letter to the Minister, UNELCO stated that *“it was important to us that the parameters of the concessions are extended”* however it does not explain:

- What the benefits are to potential customers?
- What benefits are being provided to Government?
- What are the *‘advantages under the concession contract’* that they refer to?
- What investment funding is UNELCO offering to make? How is it being funded?
- Explain *“economical and development challenges for the concerned population”*? What does this mean?
- How is UNELCO covering the cost of the HV networks in Tanna, up to an amount of 50M vatu?
- How are the projects being funded? UNELCO is contributing in the case of Tanna 10M vatu. Where is this money derived from?
- Are the proposals the least cost technically feasible options proposed by UNELCO and have the cost estimates been tested i.e. are they competitive.
- What is the cost implication of increasing existing generation capacity to meet future demand? No information is provided about the generation capacity to be installed.

On the basis of the information provided to the Authority, these questions remain unanswered by both the government and UNELCO.

## 5.0 Conclusion and Recommendations

The Authority reviewed submissions provided to it by UNELCO and the Government, specifically the *Governments Contract and Tenders Act No 10 of 1998*, *Electricity Supply Act No 21 of 2000*, the concession contracts for Tanna and Malekula Islands; Tanna and Malekula project proposals; and draft addendums for the extension of concession boundaries.

An evaluation of the legislation highlighted material non-compliance with the *Governments Contract and Tenders Act* which is likely to result in any signed contract being made void.

The *Electricity Supply Act* which allows for the Minister, on behalf of the Government, to enter into an agreement granting a person a sole concession does not empower a Minister to amend, alter or vary the boundaries of an existing concession under contract.

The Authority found no reason why UNELCO was unable to provide electricity services outside of the concession without the requirement for an extension of the existing concession boundaries. An extension of the network outside of the concession area **does not** require the existing concession boundaries to be extended or amended under the agreement.

UNELCO has refused to provide the Authority its capital expenditure “investment” plan and has not:

- Informed the government and the public of UNELCO’s commitment to extend networks, ensure reliable and safe supply, increase quality and customer connections which the tariff has allowed for over the next 5 years;
- Informed the government and customers what their tariff is paying for;
- Advised the government and customers where their tariff is being spent; and
- Indicate where and when future electricity investments are to be made in collaboration with the government’s economic development goals.

Without the plan UNELCO fails to substantiate any revenue it has requested through the tariff.

UNELCO did not address the economic, technical and financial aspects of the projects and did not substantiate its claims under the tariff.

The project proposals did not address key issues such as the additional costs to be incurred by existing and future customers and the charges that will be incurred by future customer who may request an electricity connection. UNELCO failed to address other key issues, specifically how an open, transparent and competitive tender would be implemented by the European Union for the proposed works in the Tanna and Malekula concession.

The lack of supporting material received from UNELCO raises several major concerns, in particular project scope and costs, project timeframe, costs per customer, any additional costs the customers may incur and the number of customer likely to be connected and/or benefit as a result of this work.

## **Recommendation**

It is recommended that the Government:

1. Obtain the necessary information and costs including specification details for the project proposals submitted by UNELCO that address the questions raised in this report;
2. Undertake an evaluation and review as set out under the Government Contracts and Tenders Act for the proposed extension of concession boundaries and address whether concession area extensions are required and desirable.
3. Request UNELCO disclose its Capital Expenditure Plan with the Authority so that the Government is assured that its economic development goals are being achieved.
4. Request the Authority undertake a full review of the project proposals submitted by UNELCO to determine whether such proposals are least cost technically feasible and prudent investments in line with the capital expenditure plan provided by UNELCO.
5. Undertake a competitive tender for the construction of the grid extensions in both Tanna and Malekula Islands if the addendums are found to be void.

## APPENDIX

1. UNELCO letter dated 11 February 2011 to Honourable Harry Iariso Iauko, Minister of Lands Geology Mines and Water Resources regarding draft addendum for the Tanna concession proposed by UNELCO to be agreed by the Government of Vanuatu.
2. Prime Minister's Office letter to Minister of Lands Geology Mines and Water Resources dated 29 June 2011 seeking agreement and signoff of proposals and concession addendum.
3. Utilities Regulatory Authority letter dated 4 July 2011 advising the Minister of Lands Geology Mines and Water Resources of its concerns with UNELCO's proposals for Tanna and Malekula concessions.
4. Ministry of Lands Geology Mines and Water Resources letter dated 7<sup>th</sup> July 2011 seeking independent review and assessment of UNELCO's project proposals.
5. Utilities Regulatory Authority letter dated 8 July 2011 seeking relevant information from UNELCO regarding its project proposals for grid extension.
6. Draft addendum No 1 to the concession contract of 14 July 2000 for the generation and public supply of electric power in Malekula Island received by the Authority on 12 July 2011.
7. Email communications and submission of project information for Malekula Island grid extension.
8. Electrification project for Tanna Presented by UNELCO on February 2011.