

GOUVERNEMENT DE LA
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GOVERNMENT OF THE
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Utilities Regulatory Authority

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UNELCO and KUTH Energy Propose to Change Consumer Protection

The Utilities Regulatory Authority (URA) is once again alerting the electricity consumers in Vanuatu that UNELCO is attempting to change the law which created the Authority and protects electricity and water consumers. Changes have also been proposed by Kuth Energy, a potential geothermal developer from Australia.

The *Utilities Regulatory Authority Act No. 11 of 2007* (URA Act) clearly states that the Authority's main function is to promote the long-term interest of electricity and water consumers, as well as ensure access to safe, reliable and affordable electricity and water services throughout Vanuatu.

UNELCO and KUTH Energy submitted a set of amendments to the government in June without consulting consumers or the regulator, and without taking into consideration the laws and policies of the country.

Many of the proposed amendments transfer a large measure of regulatory and contractual administration powers away from the Authority and back to the Government. The proposed amendments have the general effect of undermining key reasons for the creation of the Authority.

Since its creation, the Authority has functioned well and brought appropriate level of scrutiny and control to the energy sector and concessions. In May 2010, the Authority completed its tariff review and recommended a 6.8% reduction of the electricity tariff. UNELCO disputed the result and a panel of arbitrators was set up to find a compromise. In 2011, the tariff was reduced by 4.7% on average, still a great achievement for the Authority to the benefit of all the consumers in Vanuatu.

The proposed amendments have the general effect of severely weakening already limited regulatory control over electricity. The proposed amendments secure for UNELCO several critical protections from regulatory influence and impose upon the Authority a variety of critical administrative and operational burdens.

Already in November 2011 the Authority raised its concerns with the government, specifically the Ministry of Lands, when attempts were being made to amend *the Utilities Regulatory Authority Act No. 11 of 2007*. UNELCO had been organizing a meeting with some government officials in secrecy and without any consultation with consumers or the regulator.

No one could provide the actual amendments so the Authority could only assume that the outcome of the proposed amendments would be to the detriment of the people of Vanuatu.

In June 2012 the Authority obtained a copy of a new set of amendments being proposed by the monopoly electricity provider UNELCO and KUTH Energy.

Following a review of the proposed amendments the Authority is once again gravely concerned that there has been no proper consultation and no transparency by the proponents to the amendments.

The Authority has advised the relevant ministries and government of its concerns. It has also advised the government on how the proposed amendments would impact on Vanuatu electricity and water customers. The Authority's advice and detailed analysis can be found on its website at www.ura.gov.vu.

Moreover, the proposed amendments do not reflect any Government policy of which the Authority is aware. Many of the proposed amendments are poorly drawn; being uncertain in effect, duplicating, redundant and generally inconsistent with both the style and arrangement of the Act, and legislative style in Vanuatu.

The reason for the proposed amendments is based on contentious representations by UNELCO and KUTH, with which the Authority disagrees.

The proposed amendments will NOT further the purposes of the URA Act or provide any ascertainable benefit to the public in Vanuatu. They will, in fact, do just the opposite and have an anti-developmental effect. They represent a substantial return to the pre-2007 past.

These proposed amendments by UNELCO and KUTH Energy and the lack of consultation and transparency seek to undermine the protection afforded to the electricity and water consumers throughout Vanuatu and the public as a whole.

The *URA Act* was drafted by the State Law Office after a long consultation process with the Government and stakeholders.

It has two functions: first to administer the concession contracts, which provide the rules on how electricity and water are provided by UNELCO; and second to regulate the electricity and water monopolies.

The Authority was given the task to manage the concession contracts because the government had managed it poorly for many years. More efficient contract management and professional regulation are important in attracting investment and benefits to Vanuatu's economy.

The Authority will continue to do everything it can within the law to protect the long-term interests of the public, specifically all electricity and water consumers in Vanuatu.

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About the Utilities Regulatory Authority

The URA was set up under the *Utilities Regulatory Authority Act No. 11 of 2007*. The Authority acts independently of the Government and its primary purpose is to increase access to safe, reliable and affordable electricity and water services, and to protect the long-term interests of consumers throughout Vanuatu. In the electricity sector, the Authority monitors the concessions operated by UNELCO in Malekula, Port Vila and Tanna; and Vanuatu Utilities and Infrastructure Ltd (VUI) in Luganville. In addition, the Authority manages consumer disputes and advises the Government on matters related to electricity and water. It also reviews tariffs under the rules of the Concessions Agreements and relevant legislation.

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