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# Office of Utilities Regulation

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## Determination Notice

### National Water Commission - Payment Compliance Initiative

July 28, 2015



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**OFFICE OF UTILITIES REGULATION**

(36 Trafalgar Road, Kingston 10)

National Water Commission - Payment Compliance Initiative/Late Payment Fee

Determination Notice

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## DOCUMENT TITLE AND APPROVAL PAGE

1. DOCUMENT NUMBER: 2015/WAS/003/DET.001

2. DOCUMENT TITLE: National Water Commission - Payment Compliance Initiative

### 3. PURPOSE OF DOCUMENT

This document outlines the Office's decisions regarding the application of a payment compliance initiative/late payment fee by the National Water Commission.

### 4. ANTECEDENT PUBLICATIONS

| Publication Number   | Publication Title   | Publication Date |
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| 2014/WAS/004/RCN.001 | Reconsideration of the Office's Decision: Determination Notice (Document No. 2013/WAS/004/DET.003) on "National Water Commission Review of Rates" | July 24, 2014    |
| 2013/WAS/004/DET.003 | National Water Commission Review of Rates - Determination Notice  | October 1, 2013  |
|                      | National Water Commission Tariff Application 2013 – 2018  | March 2013       |

### 5. Approval

This document is approved by the Office of Utilities Regulation and the decisions therein become effective on August 27<sup>th</sup>, 2015.

On behalf of the Office:

  
.....  
Albert Gordon  
**Director General**

**Date**

(July 28, 2015)

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## **ABSTRACT**

This document outlines the decisions made by the Office of Utilities Regulation (the “Office”) on the review of the proposal submitted by the National Water Commission (NWC) to implement a Payment Compliance Initiative. In its proposal, the NWC seeks the Office’s approval to implement a programme that will provide an incentive to customers who complete their bill payments on or before the due date or impose a penalty on those who make incomplete or no payments after the due date.

## **Chapter 1: INTRODUCTION**

- 1.0 On March 11, 2013, the National Water Commission (“NWC/Commission”) submitted its tariff application for the review of its rates, services and operational standards to the Office of Utilities Regulation (“OUR/Office”) for review. NWC, in its tariff application included a proposal for the implementation of an Early Payment Incentive/Late Payment Fee (“EPI/LPF”) to be charged to its customers. In response to NWC’s tariff application, the OUR issued “National Water Commission Review of Rates - Determination Notice” (Document No. 2013/WAS/004/DET.003) dated October 1, 2013 (the “Determination Notice”). The NWC, subsequent to the issuance of the Determination Notice, requested that the Office reconsider certain aspects of the Determination Notice. In response, the Office issued the “Reconsideration of the Office’s Decision: Determination Notice (Document No. 2013/WAS/004/DET.003) on the National Water Commission Review of Rates”.
- 1.2 In the Determination Notice (paragraph 10.21), the Office indicated that in order to facilitate approval of the NWC’s request for the implementation of an EPI/LPF programme, the Commission needed to provide the Office with a detailed proposal which outlines how the initiative will be operationalized. By way of correspondence dated July 11, 2014, the NWC submitted a proposal. Subsequently, during its review of the proposal, the OUR requested further information from NWC. The additional information requested to facilitate the completion of the Office’s review was received in February 2015.

### **Summary of NWC’s Request for a Payment Compliance Initiative**

- 1.3 NWC proposed that the EPI/LPF will be applicable to Residential, Commercial and Condominium customers and will consist of the following two components:
- An Early Payment Incentive of \$250.00 which will reward customers who make full/total payments on or before the stipulated due dates.
  - A Late Payment Fee of \$250.00 which will become applicable on the day following the due date where the account has not been settled in full.

1.4 The Commission proposed that where an Early Payment Incentive applies it will be credited to the customers' bills in the following month. Similarly, where Late Payment Fee charges are incurred, same will be applied to the customer's bill in the following month.

1.5 For the avoidance of doubt, EPI/LPF will not be applicable to the following accounts:

- Accounts with credit balances
- Accounts awaiting adjustments
- Accounts with payment arrangements
- Accounts being queried
- Pre-paid accounts

1.6 In addition to the application of the Late Payment Fee, the Commission proposed nine (9) days' grace period (the "grace period") for customers who are late with their bill payments before resorting to disconnection. This grace period will be in addition to the initial twenty one (21) days provided between the bill date and the due date. The grace period will not affect the applicability of the Late Payment Fee requirement.

1.7 The NWC stated that to facilitate a successful implementation of the EPI/LPF programme, it has improved and expanded its bill notification system to include the following:

- emails
- text/voice messages
- personalized delivery via contractors
- bill query facilities which include Interactive Voice Recognition (IVR), call centre and online via the Commission's website.

1.8 The Commission also reported that it is taking steps to expand the payment channels through the engagement of additional agencies as well as the introduction of the NWC online bill payment system via its website later this financial year.

## Summary of Office Determinations

1.9 The following represents the Office's decisions on the NWC's Payment Compliance Initiative:

- **Office's Determination 1**

(1a) The Office gives its non-objection to the \$250.00 being applied to NWC's customers' accounts as an incentive or penalty, where applicable.

(1b) The Late Payment Fee does not apply to customers who are disconnected by NWC. Customers who have been disconnected should only pay the reconnection fee for the reconnection of the service.

(1c) The Late Payment Fee will only apply to bills for which payment is due after the stipulated effective date.

- **Office's Determination 2**

(2a) The Office gives its non-objection to the application of a nine (9)-day grace period before resorting to disconnection where bill payments are not received on or before the due date.

(2b) The supply should not be disconnected during the nine (9) days' grace period. In the event of such an occurrence, it constitutes a breach of this policy and the supply should be restored unconditionally within twenty-four (24) hours of the disconnection.

- **Office's Determination 3**

The Office has determined that only prepaid accounts and accounts with payment arrangements are to be automatically exempted from participating in the Early Payment Incentive/Late Payment Fee initiative.

- **Office's Determination 4**

The NWC must use the receipt date for payments made at payment agencies to determine the applicability of the Early Payment Incentive/Late Payment Fee to an account.

## Chapter 2: LEGAL FRAMEWORK

2.0 The NWC is a body corporate established by virtue of Section 3 of the National Water Commission Act (“the NWC Act”). Pursuant to Section 4 (1) (b) of the NWC Act, the function of the NWC inter alia, is to “*within the limits of its resources provide and improve water supply services throughout the Island*” and “*maintain and operate water supply services provided by the Commission*”.

2.1 Pursuant to Section 4 of the Office of Utilities Regulation Act (the “OUR Act”) the Office is empowered to regulate the supply and distribution of water and the provision of sewerage services. The Office’s authority to approve rates and fees is set out in Section 11 of the OUR Act which states as follows:

*“11. (1) Subject to subsection (3), the Office may, either of its own motion or upon application made by a licensee or specified organization (whether pursuant to subsection (1) of section 12 or not) or by any person, by order published in the Gazette prescribe the rates or fares to be charged by a licensee or specified organization in respect of its prescribed utility services.*

*(2) for the purposes of the section, the Office may conduct such negotiations as it considers desirable with a licensee or specified organization, industrial, commercial, or consumer interest, representatives of the Government and such other persons or organizations as the Office thinks fit.*

*(3) The provisions of subsections (1) and (2) shall not apply in any case where an enabling instrument specifies the manner in which rates may be fixed by a licensee or specified organization.”*

2.3 The Office, having reviewed the proposal submitted and in consideration of the provisions of the aforementioned statutes, sets out below its decisions, which include areas of concern, under their respective headings.



## **Chapter 3: OFFICE DECISIONS ON NWC'S PROPOSAL**

### **NWC's Request: Early Payment Incentive/Late Payment Fee of \$250.00**

3.0 In its proposal, the NWC requested approval for the following:

1. An Early Payment Incentive of \$250.00 will be applied to accounts for which full/total payment is received on or before the stipulated due date.
2. A Late Payment Fee of \$250.00 will become applicable on the day following the due date, where the account has not been settled in full.

### **Office Comments**

3.1 The Office has considered the NWC's request to implement an incentive and penalty programme that is designed to improve on its receivables. The Office recognizes that the Commission utilizes a postdated billing system in which customers are required to pay for the service after same has been received. Accordingly, when payments are not made within a timely manner, it can have an adverse impact on the Commission's ability to operate its business. Additionally, similar schemes have been implemented in the other regulated sectors and the NWC's proposed \$250.00 incentive/penalty is in keeping with industry utility standards in Jamaica. The Office further recognizes that in order for the scheme to be effective, the amount approved for the incentive/penalty needs to be significantly sufficient to encourage customer participation.

3.2 In light of the foregoing, the Office gives its non-objection to NWC introducing an EPI/LPF to its customers, providing that this does not in any way change the approved tariff or tariff structure.

3.3 The Office further determines that the introduction of the EPI/LPF will take effect 30 days after the date of approval. For clarity, the initiative will only apply to bills for which payment is due after the stipulated effective date.

**Office's Determination 1**

**(1a) The Office gives its non-objection to the \$250.00 being applied to NWC's customers' accounts as an incentive or penalty, where applicable.**

**(1b) The Late Payment Fee does not apply to customers who are disconnected by NWC. Customers who have been disconnected should only pay the reconnection fee for the reconnection of the service.**

**(1c) The Late Payment Fee will only apply to bills for which payment is due after the stipulated effective date.**

**NWC's Request: Nine (9) days Grace Period**

3.4 The NWC has proposed that in addition to the application of the late fee, customers who are late with their bill payments will be allowed nine (9) days' grace period before the Commission will resort to disconnecting the supply.

**Office Comments**

3.5 In practice, NWC allows at its own discretion a period prior to disconnecting its customers for overdue and unpaid balances. NWC is now proposing to impose a \$250.00 direct charge to customers who are tardy in paying and to introduce a nine (9)-day grace period for customers who are late with their bill payments, before NWC resorts to disconnections.

3.6 The Office has no objection to the application of the nine (9) days' grace period before resorting to disconnection where bill payments are overdue.

3.7 The Office emphasizes that supply should not be disconnected during the grace period. In the event of such an occurrence, it will be deemed to be a breach of this policy, and the supply is to be restored within twenty-four (24) hours. Since the Late Payment Fee will be applicable, there should be no requirement for payment of outstanding amount or reconnection fee or any other such condition for the restoration of supply during the grace period.

### **Office's Determination 2**

**(2a) The Office gives its non-objection to the application of a nine (9)-day grace period before resorting to disconnection where bill payments are not received on or before the due date.**

**(2b) The supply should not be disconnected during the nine (9) days' grace period. In the event of such an occurrence, it constitutes a breach of this policy and the supply should be restored unconditionally within twenty-four (24) hours of the disconnection.**

### **NWC's Request: Exemptions from the EPI/LPF Programme**

3.8 The NWC has proposed that the following accounts be exempted from participating in the EPI/LPF programme:

- Accounts with credit balances
- Accounts awaiting adjustments
- Prepaid Accounts
- Accounts with payment arrangements
- Accounts being queried

### **Office Comments**

3.9 NWC has not provided the rationale for the exemptions sought. With the exception of prepaid accounts and accounts with payment arrangements, the Office could not see a reasonable basis on which the other circumstances identified for exemption would preclude an account from participating in the EPI/LPF programme.

3.10 In the case of an account with a credit balance, the Office is of the view that consistent with the principle of early payment, an account having a credit balance, ought not to be automatically exempted from receiving the Early Payment Incentive. For instance, the Office would deem it unreasonable and asymmetric for the NWC to deny applying the Early Payment Incentive to an account for which the payment made for the billing period exceeds the amount due to be paid on the invoice. The Office's view, in this instance, is further

supported by the fact that such an account satisfies the requirement of having no outstanding balance subsequent to the payment due date, which is in keeping with the objective of the EPI/LPF programme, and as such the account should receive the incentive.

- 3.11 Additionally, the non-applicability of the Early Payment Incentive as a result of an adjustment or query being made on an account would have to be dependent on the circumstances which have resulted in the account being queried or adjusted. For example, where an adjustment is to be applied, but is delayed by the Commission, and the account is up to date with current payments, the Office would deem it unreasonable for the NWC to not apply the incentive.
- 3.12 In the same vein, where a query is made on an account, the Office is of the view that this should not automatically exempt the account from participating in the programme, as the query may or may not be of a billing-related nature.
- 3.13 In light of the aforesaid, the Office is of the view that the NWC will need to further refine the categories that will be exempted from the EPI/LPF programme in order to avoid unreasonableness and asymmetric treatment.

**Office's Determination 3**

**The Office has determined that only prepaid accounts and accounts with payment arrangements are to be automatically exempted from participating in the Early Payment Incentive/Late Payment Fee initiative.**

**NWC's Comments on Payment Channels**

- 3.14 The NWC in its proposal outlined the channels that are available to its customers for bill payments. These channels include payment agencies and financial institutions. The NWC has also advised of its intent to implement online payment on its website during the current financial year.

### **Office's Comments**

- 3.15 The Office has taken note of the various means through which customers of the NWC can make bill payments. The Office advises however that once the customer utilizes a payment medium, the NWC must use the date when payment was received by its offices or collection agencies to determine if an account is to receive the incentive or late fee charge. For clarity, the NWC must, in all instances, use the payment receipt date as its basis for applying the Early Payment Incentive or the Late Payment Fee, irrespective of when the payment information is submitted by its collection agencies or is updated to customers' accounts. Further, this is similar to what obtains in determining whether a breach has been committed under the Guaranteed Standards, specifically to the timeliness of reconnecting a disconnected supply.

### **Office's Determination 4**

**The NWC must use the receipt date for payments made at payment agencies to determine the applicability of the Early Payment Incentive/Late Payment Fee to an account.**