

OUR not in favour of stand-alone ICT regulator



The Office of Utilities Regulation (OUR) is not in favour of the plan announced last year by the government to establish a single regulator for the Information Communications Technology (ICT) sector.

Writing in the recently released Business Plan of the Office, the Director General Ahmad Zia Mian in his foreword said, "it is the considered view of the OUR that this decision runs counter to the global trend of utilities convergence, whereby the electricity company of the future will be a large conduit of data transmission, which is the backbone of the telecom revolution."

"The extent to which the Office is constrained in its operations either by the absence of the supporting statutory framework as in the case of electricity and water, delay in the enactment of enabling legislation as in transport and defects in existing statutory and institutional provisions as in the case of telecommunications".

Mr. Mian noted that these are all factors beyond the control of the OUR and expressed his disappointment in having to report that not only was there no improvement in the situation over the past year, but that a further deterioration is anticipated with the announced policy decision to hive off telecom regulation from the OUR.

The Business Plan notes that there are two contingencies, in particular, for which it is not possible to make provision at this time. These are that the OUR may be assigned oversight responsibility for the petroleum sector, and that it may be required to assume responsibility for regulating an emerging natural gas sector. The OUR considers that there is a critical need to have focused oversight of the petroleum sector as the rates at which fuel is procured represents a direct pass-through to electricity consumers which, account for about 65% - 70% of the total charge for electricity. There is an overcharge in the current structure which must be corrected and to achieve this some tax regime correction and waiver of CET would be required.

Meanwhile, the government's decision to adopt natural gas as the fuel of choice for the future, will give rise to the need for an appropriate regulatory framework. Given the natural synergy that obtains, it is logical that the OUR be required to assume regulatory responsibility for this sector.

The Business Plan can be viewed on the OUR's website at www.our.org.jm

OUR Director General Ahmad Zia Mian "...the setting-up of a separate, stand-alone ICT regulator is likely to create regulatory conflicts..."

According to the foreword "the greater convergence of these two utilities will create greater synergy in their regulation. Therefore, the setting-up of a separate, stand-alone ICT regulator is likely to create regulatory conflicts between these two sectors, and will ultimately increase the total cost of regulation. These are issues of particular relevance to small countries such as Jamaica."

The statement came in the context of the OUR's concern about the challenges it faces and recalled the comment from the preceding Business Plan which stated:

OUR staff described as "top notch"

The staff of the Office of Utilities Regulation has been given high marks following the completion in December last year of two training programmes conducted by the Institute for Public-Private Partnerships (IP3) Training Organisation out of Washington DC.

IP3 in a report on its website notes that "For the Office of Utilities Regulation (OUR) in Jamaica, IP3 designed and implemented a one-week training course on Regulatory Impact Assessments (RIA) and a one-week course on Regulating Quality of Service (RQS). Each course was conducted for approximately 20 staff members of the OUR.

The RIA course focused on the key elements on developing, designing, implementing, and report regulatory impact assessments. The RQS course focused on the key elements to quality of service regulation, planning and monitoring technical service, monitoring financial issues, and communicating quality of service issues to relevant stakeholders. IP3 was responsible for all technical content and delivery of all training sessions. Group action plans on the next steps forward was a key result from the training.

Robert Taylor, lead instructor and IP3 regulatory advisor, states,

"The staff of OUR is top notch, conscientious and above all, committed to their work and to using better regulation to improve the investment environment and the quality of services to consumers."

Regulatory Impact Analysis or Assessment (RIA) is a methodology that helps to determine the costs and benefits of policies, rules and regulations. The OUR already uses much of this methodology in its regulatory work, and it has now decided to apply it in a more structured form.

It is anticipated that RIAs will be introduced across all aspects of the OUR's regulatory activities during Financial Year 2012/13.

The Institute for Public-Private Partnerships (IP3), is a leading training provider and advisor to governments, financial institutions and public services providers in the growing international infrastructure marketplace. It has trained over 30,000 officials in the areas of finance, economics, law, policy, regulation, and management from such infrastructure sectors as energy, transportation, water, telecommunications, environmental management, and municipal services.



IP3 Lead Facilitator Robert Taylor listens to a question from across the floor during the RIA training programme for OUR staff.



IP3 Facilitator David Jankofsky addresses the staff of the OUR during the IP3 training workshop on Regulating Quality of Service.

Ten digit dialling coming to Jamaica

Jamaicans will be required to dial the full 10 digits of all telephone numbers for a local call when an additional area code is implemented for the island.

The Office of Utilities Regulation (OUR) has responsibility for telephone numbering administration and area code relief planning in Jamaica. Area Code Relief refers to an activity that must be performed when the Exchange Codes (the first three digits of your current seven digit number) within an area code are near exhaustion. Area code relief normally involves the assignment of one or more new area codes to the affected geographical area.

Using Numbering Resource Utilization and Forecast data as well as historical growth data submitted by carriers with their

applications for additional numbers, the Office has estimated that the expected exhaust period for area code '876' is the 4th quarter of this year 2012.

Based on the Office's preliminary notification to the North American Numbering Plan Administrator (NANPA) regarding the imminent exhaust of the '876' area code, NANPA has reserved a new area code for Jamaica, pending formal application for its assignment.

The additional area code will cover the same geographic area as the existing '876' area code and this will require the dialling of the full 10 digits of all telephone numbers for a local call.

OUR observes electricity meter testing procedure

In light of concerns raised in recent times about irregularities with electricity meters, the staff of the OUR went on a mission to further educate itself about the structure and functioning of an electricity meter as well as the meter testing process.

The OUR has received many complaints from consumers in this regard and while the regulatory staff relies on the reports from the test facilities to arrive at its conclusions, it was felt necessary to observe the actual testing procedure so as to have a better understanding of what is contained in the reports.



Staff from the OUR and a JPS staff member (far right) gather around a test bench observing the process of testing an electricity meter at the meter testing facility of the Jamaica Public Service Company in Kingston.



OUR staff listens intently as the Bureau of Standards team of Garfield Morgan and James Samuels explains the meter testing procedure. A demonstration of the testing procedure was later provided for the OUR team.

The funding of the OUR (Regulatory Fees)

The Office of Utilities Regulation is funded by licence and regulatory fees which are mandated according to law.

Assessments on regulated companies are the most common method for obtaining the money necessary for the functioning of regulatory agencies. The reasons it is the most common method for raising funds are rooted in both economic and political/judicial theory, and on practical grounds as well. The economic basis is simply that the cost of regulation should be borne by the users of regulatory services, namely the consumers of the regulated product. Regulation is simply another cost component of providing service in a regulated sector of the economy, and should, for purposes of pricing the services provided, be treated no differently than any other cost thereof.

The OUR does not receive a subvention from the consolidated fund (treasury) to meet its budgetary requirement but instead, its budget is funded by an annual levy on the various entities it regulates. These entities are National Water Commission (NWC), Jamaica Public Service Company (JPS) all telecommunications service providers and the Jamaica Urban Transit Company (JUTC). In addition, regulatory fees are also imposed on small water and sewerage service providers and the National Irrigation Commission (NIC).

The authority to make this levy is enshrined in law and the OUR can enforce payments through the courts. The levy payable by each regulated utility is determined by the OUR's estimate of the total annual cost of regulating each sector and levied on the basis of applying weights derived from reported regulatory revenues.

Section 6 subsection (a) of the Office of Utilities Regulation Act of 1995 (as amended in 2000) states clearly that: "The funds of the Office shall consist of sums received by the Office as licence fees and regulatory service fees in accordance with this Act". Subsection (c) continues "all other sums or property which may in any manner become payable or made available to the Office in respect of any matter incidental to its functions".

For the 2010/11 financial year, the sector and percentage contributions were as follows:

| SECTOR | PERCENT CONTRIBUTION |
|--------------------|----------------------|
| Telecommunications | 44 |
| Electricity | 38 |
| Water | 17 |
| Transport | 1 |
| TOTAL | 100 |

The imposition of regulatory fees on the organisations which are being regulated is a global standard practice. In the United States, the annual regulatory fees for the Federal Communications Commission (FCC) are mandated by Congress, pursuant to Section 9 of the Communications Act of 1934, as amended. Section 9 requires the Commission to collect regulatory fees to recover the regulatory costs associated with its enforcement, policy and rulemaking, user information and international activities.

The OUR is not the only regulator in Jamaica which is funded by fees levied on the entities which it regulates. The Financial Services Commission (FSC) is another example of a regulatory body which is funded by regulatory fees levied on the securities industry, the insurance industry and the private pensions industry which fall under its remit. Other regulators also receive funding from licence fees imposed on regulated entities.

The OUR falls within the category of independent regulatory institutions. Although the notion of independence is sometimes hard to define, in the context of the OUR it is perhaps best illustrated in terms of the extent of the autonomy that it enjoys in its decision making, the source of its funding, the lack of direct control by the political executive and the extent of its authority to exercise regulatory control over the providers of utility services.