
Office of Utilities Regulation

Proposed Drafting Instructions for Regulatory Accounting Rules

Notice of Proposed Rule Making



OFFICE OF UTILITIES REGULATION

June 30, 2005

Contents

	Pages
ABSTRACT	3
COMMENTS FROM INTERESTED PARTIES	4
CHAPTER 1: INTRODUCTION	6
LEGAL AND REGULATORY FRAMEWORK	6
PUBLIC CONSULTATION	8
STRUCTURE OF THIS DOCUMENT	8
CHAPTER 2: COMMENTS ON RESPONSES TO NOTICE OF PROPOSED RULE MAKING (NPRM)	9
RELATIONSHIP BETWEEN THE OUR AND THE AUDITORS.....	9
THE APPOINTMENT OF AUDITORS	11
ADMINISTRATION OF THE AUDIT.....	12
THE CONTENT OF THE AUDIT REPORT	13
THE APPROPRIATE LEVEL OF AUDIT ASSURANCE.....	14
AUDIT CONDUCT.....	16
CHAPTER 3: PROPOSED DRAFTING INSTRUCTIONS FOR REGULATORY ACCOUNTING RULES	20
OBJECTIVES OF THE TELECOMMUNICATIONS ACT, 2000.....	20
OBLIGATIONS TO GRANT INTERCONNECTION.....	20
ANNEX 1: AUDITING GUIDELINES FOR REGULATORY ACCOUNTS	33
G.1 AIMS OF AUDITING.....	33
G.2 APPOINTMENT OF AUDITORS.....	33
G.3 AUDIT ADMINISTRATION.....	35
G.4 NATURE OF AUDITOR’S REPORT	35
G.5 AUDIT CONDUCT.....	36

Abstract

This Document sets out rules for the preparation and publication of regulatory financial statements and supporting notes and documents. In keeping with relevant provisions of the Act the rules are applicable only to dominant carriers and or dominant service providers. The Notice of Proposed Rule Making (NPRM) for Regulatory Accounting purposes was first published in July 2003. Responses were received from C&WJ and Digicel. The OUR has taken all responses into account and now provides its comments to the issues raised in these responses by recognizing that some of the suggestions are in fact consistent with international best practice while proposing alternatives to other suggestions.

Comments from Interested Parties

Persons who wish to express opinions on this Document are invited to submit their comments in writing to the OUR. Responses to this document should be sent by post, fax or e-mail to:-

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Fax: (876) 929-3635
E-mail: pwilliams@our.org.jm

Responses are requested by July 29, 2005. Any confidential information should be submitted separately and clearly identified as such. In the interest of promoting transparent debate, respondents are requested to limit as far as possible the use of confidentiality markings. Respondents are encouraged to supply their responses in electronic form, so that they can be posted on the OUR's Website at www.our.org.jm .

Comments on responses

The OUR's intention in issuing the NPRM is to stimulate public debate on the important issues pertaining to regulatory accounting in accordance with Section 4 of the Act. The responses to this Document are a vital part of that public debate, and so as far as possible, should also be publicly available. The OUR considers that respondents should have an opportunity both to examine the evidence and views put forward in other responses, with which they may disagree, and to comment on them. The comments may take the form of either, correcting a factual error or putting forward counterarguments and/or providing data relating to cost and revenues, etc.

Comments on responses are requested by August 19, 2005.

Arrangements for viewing responses

To allow responses to be publicly available, the OUR will keep the responses that it receives on files, which can be viewed by and copied for visitors to the OUR's Offices. Individuals who wish to view the responses should make an appointment by contacting **Lesia Gregory** by one of the following means:-

Telephone: (876) 968 6053 (or 6057)
Fax: (876) 929 3635

The appointment will be confirmed by a member of the OUR's staff. At the pre-arranged time the individual should visit the OUR's offices at:

3rd Floor, PCJ Resource Centre, 36 Trafalgar Road, Kingston 10

The individual will be able to request photocopies of selected responses as well as comments on responses at a price, which just reflects the cost to the OUR.

Timetable

The timetable for the consultation is summarized in the table below:-

Summary of the timetable for public consultation

<i>Event</i>	<i>Date</i>
Publish Drafting Instructions for Regulatory Accounting Rules	June 30, 2005
Response to this document	July 29, 2005
Comments on respondents' Response	August 19, 2005
Determination Notice	By October 7, 2005

These “Drafting Instructions for Regulatory Accounting Rules” are not legally binding and do not constitute legal, commercial or technical advice of the Office of Utilities Regulation. This consultation is engaged in without prejudice to the legal position of the Office and its duties under applicable legislation.

This document will be available on the OUR's Web site at <http://www.our.org.jm>

CHAPTER 1: INTRODUCTION

Legal and Regulatory Framework

1.0 The Telecommunications Act 2000 (The Act) is the primary legislation governing Jamaica's telecoms sector. Under The Act the Office has been assigned certain regulatory duties. The broad objectives of the Act are:-

- to promote and protect the interests of the public;
- to promote universal access to telecommunications services for all persons in Jamaica, to the extent that it is reasonably practicable to provide such access;
- to facilitate competition in a manner consistent with Jamaica's international commitments in relation to the liberalization of telecommunications; and
- to encourage economically efficient investment in the sector.

1.1 It is a provision of the Act that the Office discharges its duties and responsibilities in a transparent and accountable manner. Amongst the duties and functions, the Office is to:-

- promote the interests of customers while having due regard to the interests of carriers and service providers ; and
- promote competition among carriers and service providers.

1.2 In order to satisfy the *any-to-any* connectivity principle of interconnection each public voice carrier is obligated to permit interconnection of its public voice network with the public voice network of any other carrier for the provision of voice services.¹ Two other general principles regarding the nature and purpose of interconnection by all public voice carriers are:-

- a) *End-to-end Operability*: Interconnection should be across interfaces of sufficient functionality to ensure that high quality services can be provided to consumers even where the call recipient and the calling customer are on different networks.
- b) *Equal Responsibility*: All public voice carriers have equal responsibility to ensure that networks are interconnected and to do so as quickly as is reasonably practicable.

1.3 Entrants have to pay a large amount of their revenues in interconnection charges, making them vulnerable to abuse of dominance by the incumbent. A dominant firm has the ability to distort competition in a

¹ Section 29(1), Telecommunications Act, 2000

relevant market. This is especially so in telecommunications, in which a dominant firm is typically both:-

- a supplier of critical inputs (interconnection and wholesale) to downstream service providers; and
- a competitor against these service providers in downstream retail markets.

1.4 For these reasons, the Act provides some general underlying principles regarding interconnection services supplied by dominant public voice carriers. These are listed below (Section 30):-

- terms and conditions of interconnection shall be
 - “on a non-discriminatory basis;
 - reasonable and transparent, including such terms and conditions as relate to technical specifications and the number of locations of points of interconnection; and
 - charges shall be cost oriented and be guided by certain cost causation principles in section 33;
- no unfair arrangements for cross-subsidies shall be made; and
- where technically and economically reasonable interconnection services shall be so diversified as to render it unnecessary for an interconnection seeker to pay unreasonably for network components or facilities it does not require.”

1.5 To ensure that charges are truly cost oriented Section 30(2) of the Act makes it obligatory for each dominant public voice carrier to “...keep separate accounts in such form and containing such particulars as will enable the Office to assess whether that carrier provides interconnection services in accordance with the principles specified...” at paragraph 1.4. A more general provision is set out at section 4(5) which provides for the Office to “...make rules, subject to affirmative resolution, prescribing the system of regulatory accounts to be kept by a dominant carrier or service provider”. Additionally, Section 35 - (1) of The Act states that:

“The Office may, after consultation with the Fair Trading Commission and such participants in the telecommunications industry as it things fit and subject to subsection (3), make rules subject to affirmative resolution (hereinafter referred to as "competitive safeguard rules") prescribing the following matters in relation to dominant public voice carriers -

- (a) separation of accounts;
- (b) keeping of records;”

Public Consultation

- 1.6 In March 2000 the Office published a consultative document titled "[Regulatory Accounts for a Dominant Carrier or Service Provider](#)." In this document the Office sought the views of interested parties and stakeholders on the regulatory accounting requirements to be imposed on the dominant incumbent telecommunications carrier and service provider, Cable & Wireless Jamaica (C&WJ) Limited. The March 2000 document covered a wide variety of issues relating to the preparation and publication of regulatory financial information, including:-
- (a) purposes of separate accounts;
 - (b) separate accounting structure,
 - (b) definitions of main business areas, and where applicable the service categories within each business area;
 - (c) format and contents of financial statements;
 - (d) publication of financial statements and related information;
 - (e) auditing, and
 - (f) the Accounting Documents.
- 1.7 Responses were submitted by C&WJ and Digicel. There was general support for the objectives of regulatory accounts put forward in that consultative document. However, there were differences of opinion with regard to the degree of disaggregation in the structuring of such accounts. While Digicel supported the level of disaggregation set out in the document, C&WJ for its part argued that it would be costly both in terms of publication, auditing preparation and would lead to higher prices for customers.
- 1.8 In this document, the Office sets out its views with regard to the issues raised in response to the [Accounting Rules For Regulatory Purposes, July 2003](#) (TEL 2003/04) on the proposed rules for separate accounts.

Structure of this Document

- 1.9 Chapter 2 addresses the issues raised in response to the NPRM and in particular, issues relating to the regulatory audit. Chapter 3 sets out the proposed drafting instructions for Regulatory Accounting Rules.

CHAPTER 2: COMMENTS ON RESPONSES TO NOTICE OF PROPOSED RULE MAKING (NPRM)

2.0 The NPRM ([Accounting Rules for Regulatory Purposes, July 2003](#)) was published July 1, 2003. Responses were received from C&WJ and Digicel. The concerns raised by C&WJ were in relation to:

- the appointment of auditors;
- administration of the audit;
- the content of the audit report;
- the appropriate auditing standards (and thus, the appropriate level of audit assurance); and
- the conduct of the audit.

The Office now responds to these concerns below.

Relationship Between the OUR and the Auditors

2.1 The OUR, and potentially other third parties, may use the regulatory accounts during the course of their business. The OUR therefore invites comments on whether or not the auditor should have a duty of care towards it, as well as comment on the general nature of the relationship that should exist between it and the auditors.

2.2 This is a key aspect of the auditing framework for regulatory accounts as this relationship may also affect the:

- appointment of auditors;
- administration of the audit;
- content of the audit report; and
- conduct of the audit.

C&WJ's response

2.3 From C&WJ's response, it seems that its primary concern regarding this issue is that an auditor would be unlikely to agree with many of the OUR's proposals because it would not have a contractual relationship with the OUR. In particular C&WJ does not agree:

- that the OUR should be able to request the auditor to do further work at C&WJ's cost;
- that the auditor should be required to determine if the OUR can rely on the regulatory accounts in the exercise of its duties as this would increase the scope of the audit whilst auditors may not be prepared to give such an opinion; and
- with the proposal that the auditors should have regular meetings with the OUR is justified. C&WJ believes this would add to the time and expense of the audit whilst the auditor would anyway be bound by client confidentiality rules thus limiting the scope of any meetings. Similarly, C&WJ believes that the auditor is unlikely to share its working papers with the OUR.

OUR's Response

2.4 In October 2003, following discussions with a number of UK sectoral regulators, including Oftel (now Ofcom), the Institute of Chartered Accountants in England and Wales (ICAEW) published a technical release ("Reporting to regulators of regulated entities") that describes and discusses regulatory reporting requirements in the UK. These guidelines focused in particular on the relationship between the auditor and the regulator. The ICAEW describes two possible approaches to the contractual arrangements for a regulatory audit, as follows:

- A tri-partite agreement: Under such an agreement both the operator and regulator are parties to the written engagement contract. The contract therefore contains appropriate clauses clarifying and limiting the scope and extent of the auditors' responsibilities and liability to each party².
- A bipartite agreement: Under this form of agreement only the operator is party to the written engagement contract. However, the written engagement contract may include a mechanism enabling the auditors to extend their responsibilities to the regulator. An additional "written notice" between the auditors and the regulator may be used to confirm that the auditors will accept an additional duty of care/responsibility to the regulator on the same terms as the original agreement. In this case, an auditor is likely to cap its total liability to both parties to the amount that would have been payable by it to the operator under the bi-partite engagement contract.

² An example letter of engagement under a tri-partite agreement is contained in Appendix C of the ICAEW report. This may be found at http://www.icaew.co.uk/viewer/index.cfm?AUB=TB2I_58894

- 2.5 For example, PwC (as BT's regulatory auditors) has recently concluded an agreement with Ofcom and BT where it will in future acknowledge that it owes to Ofcom a duty of care in the audit of BT's regulatory accounts. However, this also includes a capped limit on PwC's liabilities and a disclaimer of rights to other third parties.
- 2.6 The conduct of the audit is also set out in the engagement letter. It may include for example, clauses setting out the obligation on the part of the auditor to attend tri-partite meetings with the regulator, together with the arrangements for such meetings.
- 2.7 Ofcom considers that these more formal agreements between it and regulatory auditors (as outlined above and compared to the previous relationship between Oftel and regulatory auditors that did not specify a duty of care) benefit it by allowing it to:
- oblige the auditor to attend meetings with Ofcom staff;
 - specify, with supporting reasons, particular factors that it considers material in the context of the regulatory financial statements and;
 - specify other specific factors to be reported upon that may require the performance of an agreed list of additional procedures, beyond the scope of the standard audit, and on which a separate report will be provided³.
- 2.8 The benefits that Ofcom describes closely match a number of the proposed requirements of the OUR. This demonstrates that there is international precedence for this approach to regulatory audits where the auditors of regulatory accounts have a duty of care to the regulator.
- 2.9 In relation to the role of the auditor, the OUR agrees that its role is to confirm that the accounts comply with the stated framework. Further, the OUR agrees that the auditor's working papers may remain confidential and not disclosed to clients or other parties.

The Appointment of Auditors

C&WJ's response

- 2.10 Whilst C&WJ agrees with the OUR's proposal that it should be responsible for appointing its regulatory auditor, it does not agree that the OUR should have a direct role in establishing terms of engagement for the auditor.

³ "The regulatory financial reporting obligations on BT and Kingston Communications: accounting separation and cost accounting final statement and notification", Ofcom July 2004.

- 2.11 C&WJ does not agree that it should be responsible for ensuring the auditor possesses the appropriate expertise as this would “amount to a requirement on the dominant carrier/service provider to “police” the independent auditing profession in Jamaica⁴”. Rather, it argues that it should be the duty of the auditor to ensure that it is able to adequately audit the accounts prior to accepting the appointment.
- 2.12 C&WJ also does not understand the OUR’s requirement that it be notified of a change in the identity of the audit firm four months prior to the financial period to which the audit relates; nor that it provides six months notice of a change in auditor. Instead it proposes to provide the OUR with a one-day “courtesy notice” of a change in auditor.

OUR’s Response

- 2.13 The proposal that C&WJ appoints the auditor is consistent with the majority of international practice. The dominant operators in the UK, Guernsey and Bahrain all appoint auditors for conducting the audit of their regulatory accounts. However, if the auditor appointed by Batelco (Bahrain) and BT and Kingston (UK) is not deemed acceptable, the respective regulator can then require the appointment of an alternative auditor. With this approach, it is not necessary for C&WJ to be responsible for guaranteeing the necessary “qualifications and expertise” of the auditor, as it will ensure the auditor is acceptable to all parties. The OUR proposes to use this approach.
- 2.14 In relation to the engagement letter, as proposed above⁵, it may be possible for the OUR to form a tri-partite agreement with C&WJ and its auditor. This would facilitate the OUR partaking in the drafting of the engagement letter and agree the final letter.
- 2.15 Regarding the notification period for a change in the auditor, the OUR notes that in UK, BT and Kingston have to provide Ofcom with 28 days notice of a change in regulatory auditors. The OUR is of the view that this period may be reasonable.

Administration of the Audit

C&WJ’s response

- 2.16 C&WJ does not believe that it is reasonable for the statutory audit and the regulatory audit to run concurrently, due to the dependence of the

⁴ “C&WJ’s response to the OUR’s notice of proposed rulemaking on accounting rules for regulatory purposes”, Document No. Tel 2003/04, page 18.

⁵ See the section on “Relationship between the OUR and the Auditor”.

regulatory accounts on the statutory accounts. However, whilst some interim audits during the course of the financial year could be carried out, C&WJ sees no reason that a plan for interim audit work should be agreed in advance with the OUR.

OUR's Response

- 2.17 C&WJ accepts that it is liable for the costs of the audit although it is concerned that it may also be liable for the costs of any further work that the OUR requests the auditor to perform. As with statutory audits, it appears to be standard practice that the firm is liable for the costs of the regulatory audit, whilst additional work should be agreed in advance of the audit under the additional "agreed upon procedures".
- 2.18 In relation to the planning of the audit work, the operator and auditor should plan the audit work independently of the regulator. This seems to be consistent with international best practice. Further, since statutory audit will be relied upon for the conduct of the regulatory audit, the OUR proposes that the regulatory audit should be provided no later than six (6) months after the end of the financial period.

The Content of the Audit Report

- 2.19 The audit report is typically published alongside the regulatory accounts and sets out:
- the auditor's approach to the conduct of the audit;
 - the limitations of the audit; and
 - the auditor's opinion on the accounts.
- 2.20 The content of the audit report may be governed by the terms of engagement for the audit and the relationship between the OUR, C&WJ and its auditor as set out above.

C&WJ's response

- 2.21 C&WJ states that the OUR's proposal that the audit report consider material divergence from the accounting documents in each regulatory financial statement could amount to a very low level of materiality. This may, in the opinion of C&WJ, extend the time and expense of the audit,

given that the OUR proposes that regulatory financial statements may encompass individual service categories.

OUR's Response

2.22 This concern relates to the OUR's proposals that financial statements should be compiled for some individual service categories thus leading potentially to the preparation of a large number of financial statements. In its technical release, the ICAEW states that auditors should assess the materiality of regulatory accounts as a whole, rather than considering any analysis of the materiality of separated accounts for individual components. A regulator may, under a tri-partite letter of engagement, specify the factors that it considers are material in the preparation of regulatory accounts, and the auditor will then take these factors into consideration when reviewing the accounts. The OUR is aware that auditors are unlikely though to express an opinion on whether these factors are themselves material in the accounts for individual services.

2.23 The OUR still requires specific factors to be reported on, in that, the auditor should draw up a list of "agreed upon procedures" to be performed in addition to the main audit. These should then be specified in the engagement contract and reported on separately. However, OUR is aware that it will need to make its own assessment of the appropriateness of the "agreed upon procedures" and the associated findings.

The Appropriate Level of Audit Assurance

2.24 As part of the audit report, the auditor must provide an opinion on the regulatory accounts. There is a range of opinions that may be used, varying according to the development of the firm's regulatory accounting system and the "confidence" that is required in relation to the accuracy of the regulatory accounts.

2.25 A number of audit opinions may be provided, including:

- that the regulatory accounts "fairly present in accordance with" the relevant prescribed accounting framework ("FPIA");
- that the regulatory accounts are "properly prepared in accordance with" the relevant prescribed accounting framework ("PPIA"); and
- a review opinion on a set of accounts that may involve the performance of an inquiry and analysis that provide the accountant with a the basis for expressing limited assurance that no material modifications should be made to the regulatory accounts for them to be in conformity with the accounting framework.

C&WJ's response

- 2.26 C&WJ does not believe that any audit opinion can be given in the first year, with a "properly prepared" opinion thereafter. Instead it believes that only a review opinion should be required for the first set of regulatory accounts. It argues that its existing accounting system has not been designed to generate regulatory accounts and that the development of a regulatory accounting system in time for the preparation of the first set of accounts would place too great a resource and financial burden on it.
- 2.27 C&WJ does not believe that it could ever reasonably be expected to produce accounts forming the basis of a "fairly presents in accordance with" audit opinion.

OUR's response

- 2.28 Regulatory accounts are most typically audited according to either the FPIA standard or the PPIA standard. Thus, the proposed approach of the OUR, to require C&WJ's first set of regulatory accounts to be audited to a PPIA standard is consistent with international practice. However, the ability of C&WJ to meet such an auditing standard is dependent upon the development of C&WJ's costing system. If C&WJ is already able to disaggregate its general ledger costs and allocate such cost to particular business units and services, it is likely to be able to meet the standards of a PPIA audit. It is noted that C&WJ has prepared service cost estimates as part of the process of developing its reference interconnect offer and price cap proposals. Although the preparation of regulatory accounts may require further disaggregation of cost and balance sheet items, C&WJ is not "starting from scratch" in the preparation of its first set of regulatory accounts. With this in mind, the OUR now proposes that the audit report for the first year of the accounts (year ending March 31st 2006) should attest that the accounts are "properly prepared in accordance with" the applicable accounting framework. Thereafter, the OUR proposes moving to an audit opinion attesting that the regulatory accounts "fairly present, in accordance with" the prescribed accounting framework.
- 2.29 Ofcom, in its recent determination on regulatory financial reporting⁶, stated that both BT and Kingston should seek FPIA audit opinions on financial statements of businesses and activities, with a PPIA audit opinion on the financial statements for individual services.
- 2.30 Ofcom determined that an FPIA audit opinion was the most appropriate opinion for financial information at the market level and above, concluding that it was, "in the context of regulatory financial reporting ... broadly

⁶ "The regulatory financial reporting obligations on BT and Kingston Communications: accounting separation and cost accounting final statement and notification", Ofcom July 2004.

equivalent to the “true and fair” opinion seen in statutory financial statements”. However, it did not consider that this was the appropriate standard to apply at lower levels of granularity (i.e., below the market level), due to the expense and complexity required to apply the “fairly presents in accordance with” audit opinion.

- 2.31 However, BT’s regulatory accounts contain a considerable level of detail and complexity, with BT’s regulatory accounting system having been developed over a number of years. It may therefore be that the audit requirements of BT are not suitable for an operator that is preparing its first set of regulatory accounts.
- 2.32 In Guernsey, C&W Guernsey’s first set of regulatory accounts was audited according to the PPIA standard. However, Guernsey’s Office of Utility Regulation now proposes to require C&WG’s regulatory accounts to be audited according to the FPIA standard⁷.
- 2.33 Similarly, the Telecommunications Regulatory Commission (TRC) in Bahrain, requires audits to attest to regulatory accounts having been “properly prepared, within the bounds of materiality, in accordance with the procedures manual that has been approved by the TRC”. Although regulatory accounts have yet to be published in Bahrain (with regulations having only been finalized in August 2004), the TRC has committed itself to a review of the appropriate audit standard within two years of the regulation coming into force, to determine whether PPIA provides the “necessary level of assurance”⁸.

Audit Conduct

C&WJ’s response

- 2.34 Whilst not specifically disagreeing with this aspect of the OUR’s proposals, C&WJ stated that the timely completion of the regulatory audit is a function of the reasonableness of the proposed regulatory reporting timescale, the extent of the regulatory accounts and the nature of the audit report that is required. Hence, in the view of C&WJ this is related to other issues in the consultation.

OUR’s response

- 2.35 The preparation of the regulatory framework is the joint responsibility of the OUR and C&WJ. The OUR will have to ensure that it uses its best endeavours to have the framework for auditing regulatory accounts in

⁷ “Accounting separation: draft regulatory accounting guidelines to Cable & Wireless Guernsey Limited”, OUR September 2004.

⁸ “Accounting separation regulation: a regulation issued by the Telecommunications Regulatory Authority”.

place in order to allow sufficient time to produce the audited report (first and subsequent) in accordance with the proposed timetable.

Other Comments

2.36 The main concerns raised by Digicel were in relation to:

- the need demonstrate which sections of the Act is applicable to particular Rules in the NPRM;
- State the principal purpose of Accounting Separation;
- The claim that the requirements for accounting separation places a disproportionate burden on Mobile Network Operators (MNO);
- The possibility that the OUR may require accounting separation on an incremental cost basis in the future;
- The need for separate consultation to determine methodologies & attribution methods; and

Applicable Sections of the Regulatory Framework

Digicel's Comments

2.37 According to Digicel, "Rules adopted pursuant to Section 4(5) require affirmative resolution, and as such the OUR should indicate which of the rules are relying on this section as their legal basis." Also, in relation to Section 71, "...the OUR may wish to clarify which of the proposed rules are being adopted pursuant to this section, so that the correct constitutional procedures are observed."

OUR's Comments

2.38 The OUR has set out the Regulatory Framework, if the Rules are consistent with this Framework, irrespective of the Section that is applicable, the Office need not say more.

Digicel's Comments

Principal Purpose of Accounting Separation

2.39 Digicel stated that, "A more fundamental objection to the proposed rules is that they appear to exceed the purpose for which accounting separation is justified. It would appear that the principal purpose of the rules is to ensure compliance with the interconnection obligations ... and in that sense there is no reason to go beyond adopting rules under Section 30(2). Many of the proposed rules have no logical connection with demonstrating compliance with interconnection obligations, and simply amount to a fishing expedition, the results of which the affected operators will be obliged to share with the world at large...."

OUR's Comments

2.40 The OUR wishes to note that rule for regulatory accounts are not intended only to be applied in relation to interconnection obligations. These Rules are intended to:

- ensure the dominant entity (carrier or service provider) does not discriminate between its retail business and competitor retail businesses;
- identify and prevent anti-competitive transfers between products in which the regulated entity is dominant, and products in which it faces effective competition;
- provide a regulatory authority with an evidence base with which to investigate accusations of anti-competitive behaviour by the dominant entity; and
- assist a regulatory authority in the development of other regulatory policies, such as price regulation.

Digicel's Comments

Accounting Separation Places a Disproportionate Burden on Mobile Network Operators (MNO)

2.41 "Digicel believes that the requirements as laid out would place at disproportionate burden on MNOs, especially given the rapidly changing market and their position on the industry life cycle curve. Digicel has only been in the market for 18 months and has not yet completed the roll out of its network."

OUR's Comments

2.42 The OUR must remind MNOs that accounting separation only applies to dominant carriers. Further, if MNOs are declared dominant, the OUR would have to conduct a separate consultation on the particular form and granularity of separation that is appropriate.

Digicel's Comments

The Cost Basis of Accounting Separation

2.43 "Of particular concern to Digicel is that the OUR is suggesting that the Separated Accounts be produced in current cost account terms and may at any point in the future require the accounts to be produced on an incremental cost basis."

OUR's Comments

2.44 The OUR must emphasize that issues such as the cost basis and other methodologies on which accounting separation is carried out, are subject

to consultation. Also, for the avoidance of doubt, any change in the existing methodology is subject to consultation.

CHAPTER 3: PROPOSED DRAFTING INSTRUCTIONS FOR REGULATORY ACCOUNTING RULES

Objectives of the Telecommunications Act, 2000

1.0 The Telecommunications Act 2000 (the “Act”) is the primary legislation governing Jamaica's telecoms sector. The broad objectives of this Act are:-

- (i) to promote and protect the interests of the public;
- (ii) to promote universal access to telecommunications services for all persons in Jamaica, to the extent that it is reasonably practicable to provide such access;
- (iii) to facilitate the achievement of (i) and (ii) in a manner consistent with Jamaica's international commitments in relation to the liberalization of telecommunications; and
- (iv) to encourage economically efficient investment in the sector.

1.1 Under the Act the Office has been assigned certain duties and functions which include:-

- regulation of specified services and facilities;
- promoting the interests of customers, while having due regard to the interests of carriers and service providers ; and
- promoting competition among carriers and service providers.

Obligations to Grant Interconnection

1.2 The Act also lays down a number of principles to be observed in interconnection viz: any-to-any, end-to-end operability, and equal responsibility.

- (i) Any-to-any connectivity enables customers of each public voice network to complete calls to customers of another or to obtain services from such other network.
- (ii) End-to-end operability requires that interconnection should be across interfaces with sufficient functionality to ensure that high quality services can be provided to consumers even where the call recipient and the calling customer are on different networks; and
- (ii) Equal Responsibility requires public voice carriers to bear equal responsibility for ensuring that networks are interconnected and to do so as quickly as is reasonably practicable.

Interconnection by Dominant Public Voice Carrier

1.3 Entrants to the telecommunications industry who have to pay a large amount of their revenues in interconnection charges are vulnerable to abuse of dominance. A dominant carrier or service provider has the ability

to distort competition in a relevant market. This is especially so in telecommunications, in which a dominant carrier or service provider is typically both a supplier of critical inputs (interconnection and wholesale services) to downstream service providers; and a competitor against these service providers in downstream retail markets.

1.4 For these reasons, the Act provides some general underlying principles regarding interconnection services supplied by dominant public voice carriers. These are listed below (Section 30):-

- terms and conditions of interconnection shall be
 - on a non-discriminatory basis;
 - reasonable and transparent, including such terms and conditions as relate to technical specifications and the number and locations of points of interconnection; and
 - charges for interconnection shall be cost oriented and guided by the principles set out in section 33 of the Act;
- no unfair arrangements for cross-subsidies shall be made; and
- where technically and economically reasonable interconnection services shall be so diversified as to render it unnecessary for an interconnection seeker to pay unreasonably for network components or facilities it does not require.

Accounting for Regulatory Purposes

1.5 Under Section 30(2) a dominant public voice carrier is obligated to "...keep separate accounts in such form and containing such particulars as will enable the Office to assess whether that carrier provides interconnection services in accordance with the principles..." set out at 30(1) of the Act.

1.6 Section 4(5) of the Act provides for the Office to make rules prescribing the system of regulatory accounts to be kept by a dominant carrier or service provider in relation to specified services. Section 2 of the Act defines "specified service" as "a telecommunications service or such other service as may be prescribed." A "telecommunications service" is defined as "a service provided by means of a telecommunications network to any person for the transmission of intelligence from, to or within Jamaica without change in the content or form and includes any two-way or interactive service that is provided in connection with a broadcasting service or subscriber television service." Both voice and data services are defined as specified services.

1.7 Under section 35 of the Act, the Office, after consultation with the Fair Trading Commission and such participants in the telecommunications industry as it things fit, may make rules (which are classified as

"competitive safeguard rules") subject to affirmative resolution. These include inter alia:-

- (a) separation of accounts;
- (b) keeping of records;
- (c) provisions to ensure that information supplied by other carriers for the purpose of facilitating interconnection is not used for any uncompetitive purpose"

1.8 Section 71 of the Act grants the Office the powers to make rules relating to any matter that it considers necessary or desirable for the effective performance of its functions under this Act.

Definitions:-

Except as is in hereinafter provided or unless the context otherwise requires, words or expressions shall have the meaning assigned to them and otherwise any word or expression shall have the same meanings as it has in the "Act".

"Act" means the Telecommunications Act 2000.

"Applicable Accounting Documents" means the document having that title that is approved by the Office and containing descriptions of the:-

- (i) Regulatory Principles,
- (ii) Attribution Methods,
- (iii) Transfer Charging System,
- (iv) Accounting Policies,
- (v) Costing Methodology(ies),

used in the preparation of each Regulatory Financial Statement and supporting notes to each statement and where there is inconsistency between the requirements of one or more of the Applicable Accounting Documents, the documents shall have priority in the order listed above.

"Accounting Policies" means the manner in which the Current Cost Accounting principles and policies applied by the carrier and or service provider in the preparation of its audited statutory accounts and reports, where relevant and appropriate, are applied in the preparation of each Regulatory Financial Statement and supporting notes.

"Attribution Methods" means the practices used to attribute revenue (including appropriate transfer charges), costs (including appropriate transfer charges), assets and liabilities to a business and, insofar as that business has been disaggregated in terms of service categories of that business, to each of the service category of that business as determined by the Office.

“Applicable Auditing Standards” Means standards of auditing specified by the Office as part of its regulatory auditing guidelines.

“Auditor” means persons so designated and whose appointment, and conduct, among other things are in accordance with the regulatory auditing guidelines specified by the Office

“Businesses” means the businesses (including Interconnect Business) comprising revenues, costs and assets as determined by the Office

“Charges” means the amounts offered or charged by the carrier and or service provider to un-related carriers and service providers for specified services and facilities.

“Cost Methodology(ies)” means the principles, methods and modelling process applied when preparing Regulatory Financial Statements and supporting notes.

“Costing Model: Relationship and Parameters” means the document with that title (along with the Detailed Attribution Methods and Detailed Valuation Methodology) containing details of the systems and processes for deriving or calculating the costs, revenues, assets and liabilities which are used by the dominant carrier and or service provider in addition to the descriptions in the Applicable Accounting Documents, to prepare the Financial Statements and supporting notes.

“Current Cost Accounting” means the principles and methods used for purposes of adjusting asset values to take account of the erosion in value caused by general inflation and changes in asset values.

“Detailed Attribution Methods” means the document with that title (along with the Detailed Valuation Methodology and Costing Model: Relationship and Parameters) containing details of the systems and processes for deriving or calculating the costs, revenues, assets and liabilities which are used by the carrier and or service provider in addition to the descriptions in the Applicable Accounting Documents, to prepare each Regulatory Financial Statements and supporting notes.

“Detailed Asset Valuation Methodology” means the document with that title which is used (along with the Detailed Attribution Methods and the Costing Methodologies: Relationship and Parameters) containing details of the systems and processes for deriving or calculating the cost, revenues, assets and liabilities which are used by the carrier and or dominant service provider, in addition to the descriptions in the Applicable Accounting Documents, to prepare each Regulatory Financial Statements and supporting notes.

“Determination” means determination, decision, directives, instructions, consents, specification and guidelines issued by the Office on matters relating to its regulatory duties, obligations and responsibilities under the Act.

“Dominant Carrier” means a carrier that holds a dominant position in the relevant telecommunications market in Jamaica within the meaning of Section 19 of the Fair Competition Act.

“Dominant Service Provider” means a service provider that holds a dominant position in the relevant telecommunications market in Jamaica within the meaning of Section 19 of the Fair Competition Act.

“Documents” include the Applicable Accounting Documents, Detailed Attribution Methods, and Detailed Valuation Methods.

“Financial Period” means a financial year in respect of which statutory accounts and reports are required to be prepared and audited in accordance with the provisions of the Companies Act.

“Information” includes notes, accounts, estimates and returns.

“Interested Parties” mean those persons, if any, carrier and or service provider, with whom in any particular case, the Office is required by law or considers it appropriate to consult.

“Interconnect Business” means any business which includes the revenues, costs and assets and liabilities derived from or used in activities related to the provision of interconnection taken together.

“Method” means to obtain record or hold data or information or to carry out any operation or set of operations on the data or information, including:-

- (i) organization, storage, adaptation, or alteration of the data or information;
- (ii) retrieval, consultation or use of the data or information;
- (iii) disclosure of the data or information by transmission, dissemination, or otherwise making available; or
- (iv) alignment, combination, blocking, erasing or destruction of the data or information.

“Regulatory Financial Statements” mean:-

- a) statement of profit and loss on a current cost accounting basis for each business;
- b) a statement of mean capital employed on a current cost accounting basis for each business;
- c) statements of cost on a current cost basis (if required by the Office);
- d) statements of cost on an incremental cost basis (if required by the Office)

- e) a statement reconciling the aggregate turnover, operating profit and mean capital employed of all the businesses and the turnover, operating profit and capital employed of the carrier and or service provider's audited statutory Report and Accounts; and
- f) any additional Regulatory Financial Statements, methods, principles, methodologies, supporting notes and documents required by the Office.

"Report of the Auditors" means a written statement or statements under the signature of a qualified auditing firm stating whether in their opinion the Regulatory Financial Statements for each business, and where applicable the service categories making up that business:-

- (a) is prepared in accordance with the form and content specified by the Office,
- (b) in accordance with the Applicable Accounting Documents and reconciles to the Annual statutory Report and accounts of the carrier and or service provider; and
- c) "fairly presents in accordance with the Applicable Accounting Documents" or "properly presents in accordance with the Applicable Accounting Documents" (or whichever standard of auditing the Office deems to be applicable at a particular time period) the Regulatory Financial Statements and supporting notes of each business and, where applicable, the service categories making up that business.

"Regulatory Accounting" means a regulatory method used for the preparation of Regulatory Financial Statements and information including notes to each Regulatory Financial Statements for different businesses run by the same company or group of companies, so that the costs, revenues, assets, liabilities associated with each business and where applicable the service categories of that business (and transfer charges between them) can be appropriately and transparently identified and properly allocated.

"Regulatory Accounting Principles" means the general principles determined by the Office to be used by the carrier and or service provider in preparation of each Regulatory Financial Statements "Service Categories" means the specified services comprising each Businesses

"Statutory Report and Accounts" means reports and accounts prepared and audited in accordance with the requirements of the Companies Act

"Service Categories" means the specified services and facilities making up each business including the interconnect business.

"Transfer Charge" means the charge (and other terms and conditions) for any service which the carrier and or service provider provides to itself or to any member of that carrier and or service provider's Group for the use or provision of a service.

“Transfer Charging System” means the system which enables a business to use a service or good from another business and to account for it as though it had purchased that service or good.

Regulatory Accounting Rules

1. A dominant carrier and or dominant service provider shall:-
 - a) establish,
 - b) prepare;
 - c) procure an Auditor’s Report, and
 - d) publish

in respect of each financial period(s) Regulatory Financial Statement on a Current Cost Accounting (CCA) basis for each business and, insofar as each business has been disaggregated in terms of service categories of the business, specified regulatory accounting information (including cost) for each of the service categories making up that business.

2. For the purposes of paragraph 1, a carrier and or service provider shall, at all times, establish and maintain adequate accounting and reporting processes and methods to ensure compliance with the rules herein and any determination(s) including amendments to previous determinations which the Office may issue from time to time in relation to:-
 - (i) the degree of disaggregation of a carrier and or service provider’s activities into various businesses and the disaggregation of each business into service categories;
 - (ii) the definitions of each business and where necessary the service categories making up that business;
 - (iii) form and content of each Regulatory Financial Statement;
 - (iv) the frequency, standard, and scope of auditing, appointment of auditors and, the nature of the auditor’s report, with respect to each of the Regulatory Financial Statement;
 - (v) publication of Regulatory Financial Statements and supporting notes and documents;
 - (vi) current cost accounting principles and methodologies used in the preparation of each Regulatory Financial Statement including supporting notes and documents.
3. Regulatory Financial Statements shall be in sufficient detail and contain such particulars which in the opinion of the Office will enable it to:-
 - a) identify unfair cross-subsidies;
 - b) ensure non-discrimination in interconnection charges;

- c) ensure that the charges for interconnection and specified service and facilities are reasonably and transparently derived; and
 - d) implement, enforce, and monitor price caps or any other formal price control mechanism.
4. The Office shall require a carrier and or service provider to prepare for each financial period any or all of the following Regulatory Financial Statements:-
- a) statement of profit and loss on a current cost accounting basis for each business;
 - b) statement of mean capital employed on a current cost accounting basis for each business;
 - c) statements of cost on a current cost basis (if required by the Office);
 - d) statement of costs on an incremental cost basis (if required by the Office);
 - e) statement reconciling each Regulatory Financial Statement with that carrier and or service provider's audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - f) any other Regulatory Financial Statements, supporting notes, accounting principles, methodologies and documents used in the preparation of each Regulatory Financial Statement.
5. Each Regulatory Financial Statement and supporting notes shall be prepared in strict accordance with the "Applicable Accounting Documents" and these "Accounting Documents" shall include:-
- a) full definitions of each business and where applicable the service categories making up that business ;
 - b) the general principles used in the preparation of Regulatory Financial Statements and supporting notes, the "Regulatory Accounting Principles";
 - c) an explanation of the methods used to allocate revenue, costs including transfer charges, assets and liabilities and capital employed in each business and, insofar as each business has been disaggregated in terms of service categories of the business, each of the service categories making up that business, the "Attribution Methods";
 - d) an explanation of how the charges for Interconnect Business to its own downstream retail services for use of the networks are derived, the "Transfer Charging System";
 - e) a description of the current cost accounting policies used in the preparation of the Regulatory Financial Statements, the "Accounting Policies";
 - f) any other principles and or methodologies including documents which the Office may, from time to time, stipulate by way of determination

such as Detailed Attribution Method, Detailed Asset Valuation Method, and Costing Methodologies: Relationship and Parameters.

6. Where there is inconsistency between all or some of the “Applicable Accounting Documents” the following order of priority shall be followed by the carrier and or service provider in preparing each Regulatory Financial Statement and supporting notes:-
 - a) Regulatory Accounting Principles;
 - b) Attribution Methods;
 - c) Transfer Charging System;
 - d) Accounting Policies; and
 - e) any other principles and or methodologies, information which the Office may from time to time require and set out in a determination.
7. A carrier and or service provider subject to the rules herein shall ensure that for each financial period the Applicable Accounting Documents are applied in a consistent manner and give full and complete effect and recognition to any determinations made by the Office. Such recognition include amendments to the Applicable Accounting Documents, form and content of Regulatory Financial Statement, Applicable Auditing Standard and any of the items covered in paragraph 2 above.
8. It is the duty and responsibility of the carrier and or service provider to ensure that each Regulatory Financial Statement includes:
 - a) statement of profit and loss on a current cost accounting basis for each business;
 - b) statement of mean capital employed on a current cost accounting basis for each business;
 - c) statements of cost on a current cost basis (if required by the Office);
 - d) statement of costs on an incremental cost basis (if required by the Office);
 - e) statement reconciling each Regulatory Financial Statement with that carrier’s and or service provider’s audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - f) any other Regulatory Financial Statements, supporting notes, principles and methodologies as well as documents used in the preparation of each Regulatory Financial Statement.
9. The Regulatory Financial Statements prepared and published by the carrier and or service provider shall be accompanied by a Statement of Responsibility under the signature of the carrier and or service provider’s most senior financial officer stating that the Regulatory Financial Statements for the financial period and for the preceding financial period

and for any period requested by the Office have been prepared in strict accordance with the “Applicable Accounting Documents”

10. The Office may either on its own initiative and or at the request of an interested party direct a carrier and or service provider to amend, modify, or change any of the following:
 - a) the definition of each business in terms of the revenues, costs, liabilities and assets comprised in it;
 - b) the definition of the service categories making up each business in terms of the revenues, costs, liabilities and assets comprised in it;
 - c) the number of businesses and service categories making up each business;
 - d) the form and content of each Regulatory Financial Statement including:
 - i) statement of profit and loss for each business;
 - ii) statement of current cost mean capital employed for each business;
 - iii) statements of cost on a current cost basis (if required by the Office);
 - iv) statement of costs on an incremental cost basis (if required by the Office);
 - v) statement reconciling each Regulatory Financial Statement with that carrier and or service provider’s audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - vi) any other Regulatory Financial Statements, supporting notes, principles, methodologies and documents used in the preparation of each Regulatory Financial Statement;
 - vii) the Applicable Accounting Documents.
11. Any request to amend any of the items contained in paragraph 10 above shall be to ensure that they are consistent with, and give full and complete effect to:
 - i) written undertakings given by the carrier and or service provider to the Office following investigations into possible contravention by that carrier and or that service provider of any of the terms of its licence, the rules herein or the Act; and
 - ii) determinations made by the Office from time to time and pursuant to its functions and duties under the Act.

and such request to amend shall be-

- (a) in writing, and
- (b) set out the reasons for the amendments

12. In considering a written request to amend, modify, or change any of the items contained in paragraph 10 above the Office shall:
 - (i) make copies of the written request available to interested parties;
 - (ii) invite submissions from interested parties on the request for amendment; and
 - (iii) have regard to any comments made by interested parties.

13. A carrier and or service provider shall comply in full with any determination of the Office requiring it to amend, modify, or change any or all of the following:
 - a) the composition of each business in terms of any or all revenues, costs, assets and liabilities;
 - b) disaggregate any business to create one or more additional businesses or aggregate a business to create one or fewer businesses
 - c) the form and content of each Regulatory Financial Statement and supporting notes;
 - d) the "Accounting Documents";
 - e) the Applicable Auditing Standard;

and such determination shall be in writing and shall include the following:

- (i) reasons for the amendments, modifications or change;
 - (ii) time period in which the carrier and or service provider is required to take action to comply with item (i); and
 - (iii) the specific action to be taken by the carrier and or service provider in relation to 10(a) through to 10(e).
-
14. A carrier and or service provider shall procure in respect of each Regulatory Financial Statement for each Business and where applicable the disaggregated service categories making up that business an independent audit report ("Auditor Report") in which the auditor shall state whether in his or her opinion each Regulatory Financial Statement and supporting notes and documents comply with the requirements of the Applicable Accounting Documents and any amendments made thereof.

 15. The carrier and or service provider shall use its best endeavors to procure from the Auditor any further explanation and clarification of the reports required under paragraph 14 and any other information in respect of the matters which are the subject of the auditor's report as may be required by the Office from time to time.

 16. The Office shall prescribe guidelines (hereinafter referred to as "Auditing Guidelines") relating to the auditing of each Regulatory Financial Statement and supporting notes to such statements and the carrier and or service provider shall comply in full with such guidelines and any

amendments made by the Office from time to time. These guidelines shall specify:-

- a) aims of auditing
 - b) procedure for the appointment of auditors;
 - c) the administration of each auditing exercise;
 - d) the nature of the Auditor's Report including the Applicable Auditing Standards;
 - e) audit conduct;
17. A carrier and or service provider shall publish for each financial period, the comparative data for the preceding financial period and within the time table set by the Office:-
- i) statement of profit and loss on a current cost accounting basis for each business and, insofar as each business has been disaggregated in terms of service categories of the business, each of the service categories making up that business;
 - ii) statement of mean capital employed on a current cost accounting basis for each business and, insofar as each business has been disaggregated in terms of service categories of the business, each of the service categories making up that business;
 - iii) statements of cost on a current cost basis (if required by the Office);
 - iv) statement of costs on an incremental cost basis (if required by the Office);
 - v) statement reconciling each Regulatory Financial Statement with that carrier and or service provider's audited statutory accounts and that reconciliation shall be demonstrated and explained;
 - vi) any other Regulatory Financial Statements, supporting notes, principles, methodologies and documents used in the preparation of each Regulatory Financial Statement.
18. A carrier and or service provider is deemed to comply with paragraph 17 by delivering, to the Office, hard copies of all the items listed at 17 the Auditor's reports, a statement of responsibility under the signature of the carrier and or service provider's senior financial officer and at the same time, posting the said on its web site.
19. A carrier and or service provider shall provide hard copies, within a reasonable time, of any of the items contained in paragraph 17 above to any person who may, after they have been published request them, and who pays the direct costs incurred by the carrier and or service provider in providing them.

20. A carrier and or service provider shall retain for (a minimum of) seven (7) years, all raw data, financial and other statements, and Regulatory Accounting reports in a standard electronic format. Also, electronic copies of all principles, methodologies and other documents used in the preparation of each Regulatory Financial Statement shall be maintained for seven (7) years.

21. Exemption Rules

- i) A dominant carrier or service provider may request in writing that the Office exempt it from compliance, either in part or in whole, with these rules.
- ii) The request must contain detailed reasons indicating the carrier's or service provider's inability to comply with the rules, either in part or in whole.
- iii) The Office is obligated to consider an exemption request and inform the carrier or service provider (in writing) of its decision.
- iv) In deciding whether to grant an exemption, the Office must have regard to whether the applicant (carrier or service provider) is reasonably able to comply with Rules in part or in whole, as per the exemption request.
- v) An exemption shall not be requested if the Office has issued a decision which considers the application of the Rules either in part or in whole, unless the applicant: -
 - a) relies upon new facts or changes circumstances that could not, with ordinary diligence have become known to the applicant while the matter was being considered by the Office; or
 - b) alleges that the decision was based upon material errors of fact or law.
 - c) Makes the request within fourteen (14) days of receipt of the decision.

Annex 1: Auditing Guidelines for Regulatory Accounts

G.1 Aims of Auditing

The underlying objective of the Applicable Accounting Documents is to provide a broad context for the auditing objectives set out below viz:-

- (i) to determine whether a carrier and or service provider has implemented the provisions of the “Applicable Accounting Documents” appropriately and effectively.
- (ii) to determine whether a carrier and or service provider:-
 - (a) is in full compliance with the current cost accounting policies, principles and procedures specified in the Applicable Accounting Documents.
 - (b) exercises consistency in applying the Applicable Accounting Documents to their accounting system and in the preparation and publication of each Regulatory Financial Statements.
- (iii) ascertain the adequacy of a carrier and or service provider’s monitoring, review and implementation arrangements with respect to the Office’s determination(s) including amendments which impact upon the Applicable Accounting Document; and
- (iv) to determine whether the Regulatory Financial Statements and other information produced and supplied to the Office and the public at large by a carrier and or service provider can be relied upon by the Office in carrying out its regulatory functions and duties pursuant to relevant legislation.

G.2 Appointment of Auditors

- (i) The initial appointment of auditors as well as subsequent reappointment shall be done under a letter of engagement, the format and content of which shall be agreed on between the Office and the carrier and or service provider.
- (ii) Subject to G.2(i) it is the duty and responsibility of a carrier and or service provider to appoint auditors to undertake the auditing exercise of its regulatory accounts and shall notify the Office in writing of the appointment.
- (iii) Notification of appointment of auditors shall be in writing and must be done no later than 28 days prior to the financial period for which the audit applies.
- (iv) Auditors shall be reappointed from year to year and the carrier and or service provider shall provide the Office with a written notice of such

reappointment no later than 28 days prior to the financial period for which the audit applies.

- (v) Where the carrier and or service provider decides to change its auditors for purposes of regulatory accounts it shall provide the Office with no less than two (2) months written notice of such change and shall indicate the reason for the change.
- (vi) The provisions of G.2 (i), (ii), and (iii) shall apply in the appointment of any new auditors.
- (vii) It is the duty and responsibility of a Carrier and/or Service Provider to ensure that Auditors undertake the auditing exercise in conformity to the “Applicable Accounting Documents” including amendments stipulated by the Office and or any relevant determination or equivalent documents issued by the Office.
- (viii) Subject to G.2 (i), (ii), (iii), and (v) the Auditors of a Carrier’s and or Service Provider’s annual statutory accounts may be appointed to carry out the audit of its Regulatory Financial Statements.
- (ix) The terms of engagement of the auditors shall explicitly provide for submission of reports to the Office and shall also allow the Office to make direct/indirect request to the auditors to provide clarification and explanation.
- (x) The Office may do any or all of the following:-
 - (a) Invite the auditors to discuss:-
 - (i) the procedures to be applied by them in carrying out the auditing exercise, and/or;
 - (ii) their findings following performance of the auditing exercise.
 - (b) Request a carrier and or service provider to instruct their auditors to perform additional and/or alternative work to substantiate the statements and or assertions contained in the Regulatory Financial Statements and supporting notes, to which they have expressed an opinion and to report to the Office accordingly.
 - (c) Appoint auditors directly to undertake further reviews, examinations and audits as the Office deems necessary if in the opinion of the Office:-
 - (i) a carrier and or service provider and or their auditors fail to provide the degree of assurance required by the Office, and or
 - (ii) the nature, timing or extent of any additional auditing exercise would still be inappropriate.

- (d) Initiate the conduct of ad hoc audits covering specific issues and for any period.
- (xi) Annual audit work carried out for purposes of Regulatory Financial Statements, whether by auditors selected and appointed by the carrier and or service provider or by the auditors selected and appointed by the Office shall be at the expense of the carrier and or service provider.
- (xii) Ad hoc audits covering specific issues conducted in any period shall be at the expense of the Office, unless the specific issues should have been covered in the annual audit work carried out for purposes of Regulatory Financial Statements.

G.3 Audit Administration

- (i) In accordance with generally acceptable accounting practices, the auditors appointed to carry out auditing of each Regulatory Financial Statement may utilize the internal audit resources of a carrier and or service provider where it is considered financially feasible to do so.
- (ii) A carrier and or service provider shall nominate a “Responsible Officer” as the person responsible for overseeing the administration and execution of the audit and the official contact for the Office.
- (iii) The audit is to be carried out for the financial period(s) determined by the Office and may be conducted concurrently with the audit of the annual statutory accounts.
- (iv) Where practical and as agreed with the Office, the audit or aspects of the audit may be conducted during the course of the audit year.

G.4 Nature of Auditor’s Report

- (i) The auditors shall plan and carry out the work as will enable them to report whether any matter has come to their attention, from the work carried out by them which causes them to believe that each Regulatory Financial Statement do not in all material respects:-
 - (a) comply with any relevant determination or equivalent documents issued by the Office;
 - (b) contain the information specified by these determination or equivalent documents as required to be published; and
 - (c) satisfy the applicable auditing standard specified by the Office in accordance with the Applicable Accounting Documents.
- (ii) Should any such matters come to the auditor’ attention, these matters should be clearly described in the report.

- (iii) Additionally, the auditors report is to clearly set out the respective responsibilities of the auditor and the carrier and or service provider and the basis on which the audit has been carried out and the opinion arrived at. Where any issues arise that may require clarification, the Office expects that the carrier and or service provider and/or auditors may obtain such clarification from the Office by way of a written request.

G.5 Audit Conduct

- (i) The carrier and or service provider is required to use its best endeavors to ensure that the conduct of the audit is in accordance with the Applicable Accounting Documents, determination(s) or equivalent documents issued by the Office, contain the information specified by these determination or equivalent documents as required to be published in each Regulatory Financial Statement and supporting notes. It is the responsibility of the carrier and or service provider to ensure, inter alia, that an auditor is appointed; that the audit is completed on time; and the audit memorandum and independent audit report are completed as required by the Office.
- (ii) Auditors should provide an independent assessment of the regulatory accounts in accordance with the regulatory framework and must have no engagements or arrangements which would create, or could be seen to create, a conflict of interest with its duty to confirm whether the accounts comply with the stated regulatory framework.
- (iii) An auditor appointed by a carrier and or service provider under a bipartite or tripartite agreement, enters into a client-auditor relationship and the appointee is therefore the auditor's client.
- (iv) The agreement between a carrier and or service provider and the auditor should indicate the absence of any conflict of interest.

STATEMENT OF RESPONSIBILITY FOR REGULATORY FINANCIAL STATEMENTS

The following statement of responsibility concerns the filings of audited "Regulatory Financial Statements" by *(name of the company)*, in compliance with the **Regulatory Accounting Rules**.

As the most Senior Financial Officer responsible for all such filings on behalf of this company, I understand that I take full responsibility and liability for the work of my company's Auditors in filing these Statements and documents with the Office of Utilities Regulation.

.....

.....

Signature of most Senior Financial Officer

Date

.....

Type or print Senior Financial Officer's name