



OFFICE OF UTILITIES REGULATION

Regulating Utilities for the Benefit of All

DIRECTOR GENERAL'S PRESENTATION

at the

STAKEHOLDERS ENGAGEMENT MEETING,
SPANISH COURT HOTEL, 2017 MARCH 16

1 SALUTATIONS

Distinguished Ladies and Gentlemen

2 OVERVIEW

I begin by noting with satisfaction that this event has become an annual fixture on our calendar. As we have observed in the past, it is part of an ongoing process to further entrench the culture of public consultation and engagement with stakeholders that has been a feature of the OUR's history and operation to date. It is also a demonstration of our strong commitment to accountability and transparency. This, along with other similar events, affords us the opportunity as well, to hear and to benefit from a wider spectrum of ideas, advice, exhortations and rebuke.

There are, from my perspective, two happy coincidences of events this year. First, this is the OUR's twentieth anniversary and we are determined to avoid the pit-fall of simply using the occasion for any self-congratulatory patting ourselves on the

shoulder and celebrating. Rather, we must also take a cerebral approach, using the occasion to reflect, to assess and to project. Second, it is has fallen to me in this 20th anniversary year to assume the position of DG, and I am determined to not just occupy space.

That said, I would like to take the opportunity this afternoon to:

- a. highlight some of the highpoints of our regulatory activities for Calendar year 2016;
- b. identify some of the current critical challenges, tasks and commitments and how they are reflected in the work plan for 2017; and
- c. emphasize some of the important principles/considerations that will guide my tenure.

Following this, we will attempt to respond to questions you may have regarding our activities in respect of the utility sectors.

3 THE Year 2016

- I. **First Year of Restructured Office** – As the Chairman indicated, the OUR Act was amended in 2015 to, among other things, increase the number of Office Members as well as to diversify the composition of the Office. That particular change has provided the OUR with an array of distinguished persons with

established track records across a wide variety of fields and professional experiences. This brings both new perspectives and fresh energy to the oversight of the OUR.

II. Sector Activities

ELECTRICITY – The last two years have seen important and exciting developments in the electricity sector. Some of these include:

- a. **Renewables** - Last year some 80.3MW in new renewable energy capacity were commissioned into service from procurement activities undertaken by the OUR in 2013 – on time. At the same time, a subsequent procurement for 37MW of additional renewable energy generation was completed during the year with an offer for electricity from solar at **US 8.53 cents per kWh**, the lowest so far in the region.
- b. **Bogue Conversion** - The 120 MW Bogue plant was successfully converted to use natural gas – partially the result of a determination issued in 2015 by the OUR which ordered this as an efficiency measure

and earmarked funds to finance it - US\$15M.. The conversion has resulted in incremental gains to consumers, but more importantly, it has been the harbinger of the entry of natural gas to Jamaica after many years of pursuing this national goal.

- c. **190 MW Replacement Base Load** – Although no longer retaining responsibility for procuring Base Load capacity, the Office was intensely involved in the assessment of PPA's, Gas Contracts and financial agreements during the year for this project.

- d. **Annual Review** – The first Annual Review under the new revenue cap regime was conducted during the year and all time lines were met.

- e. **Standard Offer Contract/Net Billing Programme** – The OUR continued its oversight of this programme during 2106 but made a final handover to the Ministry of Science Energy and Technology at the end of the year.

TELECOMMUNICATIONS – For the telecommunications sector, the year was marked by the continuation of a number of initiatives and projects aimed at improving the environment for the penetration and timely deployment of broadband as an economic driver to benefit all citizens, including those with disabilities; strengthening competition in the various markets; promoting greater information access; and ensuring fair pricing of bottleneck services and market access inputs.

f. **Quality of Service Rules** – Proposed Rules on Quality of Service Standards and Procedures for handling of Consumer Complaints which have been long in the making, were completed and submitted to MSET at the end of the year. We expect that these will be converted to subsidiary legislation this year so implementation and enforcement can begin.

g. **Major ICT Surveys** - Work on two major surveys was advanced during the year. The first is an ICT consumer survey being undertaken on behalf of the OUR and the Universal Service Fund by the UWI and STATIN. The information from this survey will assist the OUR in

discharging its responsibilities to provide the most up-to-date data on Jamaica's ICT sector. Even more critically, the result will be used to inform policy making. The second survey is part of an overall assessment of the state of competition in the Supply of Electronic Services with a view to determining if there is any need for specific regulatory intervention. Both of these activities are set for completion in the upcoming fiscal year.

- h. **Determination of Termination Charges for Fixed Networks** – As it has done for mobile termination charges with a resulting reduction in retail rates, the OUR has been building and consulting on a model for determining Long Run Incremental Cost (LRIC), for termination on fixed telecommunication networks. The OUR expects to issue a determination on this early in fiscal 2017/18. We expect that, whatever the magnitude or direction of any resulting rate change, there will at the least be a harmonisation of fixed termination rates across the different networks.

WATER & SEWERAGE - During the year the focus continued on delivery of affordable potable water, integrated sewerage services, reduction in water losses, and the drive to create efficiency incentives.

- i. **Mid-Term NWC Tariff Review** – Consistent with an undertaking given in its 2014 Tariff Determination Notice on NWC's rate application, there was a mid-term review of NWC's tariff during 2016. This resulted in an effective increase in the K-Factor from 14% to 16% while keeping the X-Factor at 5.5%. As an added incentive, for every 1% reduction in non-revenue water losses in a given year, the applied X-Factor will be reduced by 1% in the following year. Conversely for every 1% increase in non-revenue water losses in a given year, the X-Factor will be increased by 1% in the following year.

- j. **K-Factor** – The K-Factor remains a major issue of focus in the sector given its potential to provide funding for special capital intensive projects, aimed at improving the NWC's efficiency, improving treatment of wastewater and expanding sewerage services in the Corporate Area. The OUR remains concerned, however, that the programme is not generating optimal benefit and consequently the

conduct of a comprehensive audit is being pursued. The major step towards achieving this objective in 2016 was the conduct of a procurement process which has proven to be protracted but is now in its final stage.

Consumer & Public Affairs –

- k. **Payment to Customers** - Some \$117.3 million was paid out to water and electricity consumers for breaches of the Guaranteed Standards during 2016. At the same time an additional \$6.59 million was returned to consumers resulting from appeals to the OUR. The CPA Department also continued an intensive programme of public education in all media. The innovative Parish Connection initiative, which provides a forum for the utilities and consumers to have face-to-face interaction and for identification of issues and updates on plans and programmes, was brought to the parishes of St. Catherine, Clarendon, St Thomas, Portland and St Mary, during the year.

Contacts - The Consumer Affairs Unit recorded 3,754 contacts during 2016, representing a 46% increase over the prior year. JPS and NWC - at 32% and 28% respectively - accounted for the highest number of total contacts received for 2016.

Appeals - I am also happy to report that there was significant progress in the rate of appeals that were cleared up and completed within the targeted 65 days during the year, with the rate moving from a low of 20% for the first quarter of the year, to 93% for the last quarter..

III. **Critical Challenges, Tasks and Commitment for Work Year 2017**

It is true to say that even though the regulatory considerations are generally similar across the sectors they manifest different timing, trends and challenges, and, to some extent, require differing focus, emphasis and actions. The activities on the OUR Work Plan for 2017/18 to a large extent reflect these disparate elements and OUR's response to them.

Here are some highlights by way of updates.

Electricity:

The electricity sector has seen rapid changes in the last few years and this is set to continue. The charge to reduce economic cost of electricity via a mix of new and modernized capacity, fuel switching, loss reduction, and the integration of renewables is still potent. At the same time, the influx of renewables and its implications for such developments as distributive generation, storage and a smarter grid present its own range of policy and regulatory challenges. These developments also present new considerations for such matters as tariff designs, determination of cost of service, treatment of depreciation and asset impairment, and the structure of Power Purchase Agreement and related contracts. The complex of array of activities on the OUR's work plan for 2017 for the electricity sector is reflective of this reality, although I hasten to say that even then, not all is fully captured. Among the more notable activities for 2017 are:

- a. **Conduct of the Annual Tariff Review** - This will take account of changes in inflation and the impact of the extraordinary review that was completed earlier this year. The decision is due on July 1. I should

pause here to note that while reports in the media have suggested an inevitable rate increase this has not yet been determined.

- b. **JPS 2019 Rate Review** – Work will begin this year on the scheduled 2019 Rate Review which will establish the regime for the ensuing five years. Activities which will begin this year include the conduct of demand forecast, examination of tariff/rate design, determination of inputs into business plan, cost of service study, etc. It bears underscoring that this will now be done under a revenue cap regime which is essentially forward looking, and which while affording the utility some cushion against falling demand, also affords the rate payers the benefits of growing demand. It also requires the utility to commit to, and be held to, levels of capital investment.

- c. **Build out of the 37 MW Renewable Plant** – The PPA for this project has been signed and so the OUR's involvement will now shift to monitoring the build out schedule for the Eight Rivers Energy Company's 37 MW Solar Energy Plant at Paradise Park in Westmorland which is to be completed in 2018;

- d. **JPS 190 MW Dual Fuel Old Harbour Facility** – As with the 37 MW renewable plant, there will be monitoring of the build out schedule for this natural gas/ADO fired plant to ensure compliance.

- e. **Enforcement of Grid Codes** – The provisions and requirements of the grid codes that came into effect in 2016 will be enforced. Notably, the first review of these codes are also scheduled to take place in 2017.

- f. **Wheeling** – The establishment of a wheeling regime and approval of rates for wheeling have long been in the making and have had a number of setbacks, most notable of which was a successful legal challenge. Since then, a more clearly defined process has been established, but the determination of rates has been awaiting the conclusion of a Cost of Service Study which JPS elected to do. As this process is also suffering from delay, the OUR wrote to JPS this week, indicating its intention to consult on and establish interim rates.

- g. **Distributive Generation, Storage and Smart Grid** – Experience elsewhere has indicated that attention to storage and to distributive generation are ways in which some of the difficulties in integrating renewables into the grid can be attenuated. In view of this, the OUR will be engaging all stakeholders during the year to develop and provide policy and regulatory responses that will allow for these to be addressed in an orderly manner.

Telecommunications

In telecommunications, the main focus continues to be on improving the competitive environment, fostering the deployment of greater access to broadband and the delivery of better customer services. At the same time, there will be a need to continue to respond to the challenges posed to revenue streams and to conventional approaches to regulation, by continued convergence and the emergence of over the top operators. In this regard, the following are among the projects to be pursued in 2017:

- a. **Quality of Service Rules** - Contingent on their being passed into law, the rules for quality of service and resolving customer complaints will be implemented and enforced.

- b. **The ICT Adoption and Usage Survey** - results will become available during the year and it expected that apart from its use to inform any policy recommendation on ICT penetration and adoption to the Minister, it will also provide information on the indicators that are included in the ICT Development Index (IDI). The IDI is a composite index that is used to monitor and compare developments in information and communication technology (ICT) between countries and over time. It also helps countries and development partners track their progress and identify gaps so that ICTs can reach their full potential as drivers of socio-economic development for all.
- c. **Assessment of Competition in the Supply of Electronic Services** - The first phase of the assessment of the project aimed at providing a comprehensive assessment of competition in the supply of fixed and mobile telephone and data services in Jamaica, is scheduled for completion this year. As indicated this information should provide a basis for making informed regulatory decisions as to what if any,

regulatory interventions may be necessary in the sector to enhance competition.

- d. **Infrastructure Sharing** – after a protracted delay and a number of hiccups, including the need to restart the process, the consultation on infrastructure sharing and the development of rules will be completed during this year. It is expected that this will both enhance competition and efficiency through the sharing of resources.
- e. **Ensuring equivalence in access and choice for end-users with disabilities** – This project will assess whether or not access and choice for end-users with disabilities are equivalent, and identify and implement measures to address issues with respect to ensuring equivalent access and choice. We are currently in the consultation stage, and expect to have firm recommendations by the end of the year.
- f. **Numbering Plan Area (NPA) Relief Planning** - In anticipation of the exhaustion of the existing “876” area code, the OUR has commenced

the process to acquire and implement a new area code in Jamaica. The implementation phase of this process which includes, inter alia, network readiness by operators and public sensitization, will be engaged during this year. All of you would have been provided with a brochure outlining plans for a new area code which will see the introduction of ten-digit dialing in Jamaica.

- g. **Regulations to Establish “Fixed Penalty” Regime & for Review of Unfair Terms in Telecommunication Contracts** – Sections 63B of the Telecommunications Act allow the Office, where it is of the view that a person has committed an offence in relation to its area of regulation, to give that person notice in writing offering the opportunity of the discharge of liability to conviction for that offence by payment of the prescribed pecuniary penalty applicable. Regulations are required, however, to make this operational. Section 44(5) also allows the Office to, “ **a)** *examine customer contracts in respect of facilities or specified services; and b)* *direct the modification of any term of such a contract which appears to the Office to be unreasonable or unfair.*” Both of these activities are to be addressed this year, and are being treated

together in one consultancy. The OUR therefore expects to consult with stakeholders during the course of this year and establish both regimes by the end of the year.

- h. **Policy Paper for Enhanced Emergency Access Services** - The OUR has long been of the view that the creation of a centralized emergency call centre may be a more efficient mode of handling emergency calls, and that this should be explored. To this end, the procurement process for the expertise to do this is underway, and recommendations will be submitted to MSET by end of the year.

Water and Sewerage

As regulator for the Water and Sewerage Sector, the OUR's focus is on the delivery of affordable potable water, integrated sewerage services, significant reductions in water losses and continued expansion of the services. Among the challenges faced in regulating the sector to achieve these objectives are: the absence of specific sector legislation, the presence of a major state owned utility with significant capital challenges,

the persistence of high losses, and the introduction of private provisioning in selected areas.

The OUR has also found that in the absence of government guarantees, the NWC is increasingly requesting regulatory approval of schemes for funding capital investment up-front or providing a guaranteed revenue stream to finance debt. One immediate challenge that this approach imposes from a regulatory perspective, is the requirement for a significantly increased level of regulatory intrusiveness to mitigate the risk to rate payers.

Among the major work plan activities for 2017/18 for the water and sewerage sector are:

- i. **The K-Factor Audit** - The OUR implemented the K-Factor Fund in, by way of a tariff component, to provide funding for special capital intensive projects, as approved by the OUR, aimed at improving the NWC's efficiency, improving treatment of wastewater and expanding sewerage services in the Corporate Area. The K-Factor Fund is

intended to provide the NWC with the equivalent of over US\$500 Million over a 15 year period. These funds are intended to facilitate major projects which NWC would not have otherwise been able to finance, and which should result in major payback to consumers in terms of loss and cost reductions overtime. The first major audit of this Fund both in terms of its operations and results to date, are to be undertaken this year.

- j. **Preparation for 2018 NWC Tariff Review** – The preparatory activities for the 2018 tariff review will begin during the course of this year, and will include reviews of the K Factor performance, losses, treatment of depreciation, planned investments, and performance against various financial ratios, targets and service standards.

- k. **Attempts to Influence Policy** – The OUR has long bemoaned the absence of specific sector legislation to guide the development of the water and sewerage sector. While the OUR is aware of efforts to publish a new water sector policy and, indeed, has made relevant submissions, it is not aware that there is substantial commitment to

new legislation. This is therefore a matter on which we will continue to make submissions to the political executive.

IV. Some Guiding Principles as DG

I am very cognizant that in assuming leadership of the OUR I stand on the shoulders of distinguished predecessors who have done much to establish the agency in terms of its independence, a reputation for making sound technical decisions, and a well-developed tradition of scholarship and expertise. I am also fortunate that I am here at a time when I have the benefit of the collegial guidance and inputs of a number of eminently qualified persons in the other membership of the Office.

Then, there is also the advantage of having spent a number of years within the institution, and to have benefited from its institutional knowledge and culture. That said, I should hasten to say that I am also acutely aware of the associated risks, not least of which, is the myopia that this can produce.

It is fair to say that my own approach to guiding the day-to-day affairs of the OUR is still evolving, but I consider the following as important markers that I want to lay down, and by which I would wish to be assessed.

- a. During my tenure, the OUR must continue to make good decisions, but we will have to make them in a more timely manner. There is no doubt, as evident from the report I have given on past and current activities, that we need to improve our turn-around time for decisions. I propose to give this keen attention.

- b. Closely aligned to the foregoing observation, is the need to be more responsive to the needs of our stakeholders – This means we are going to have to engage with you more intensely and frequently to better understand the service and mode of delivery that you want from us. Clearly, we will need to always to stay within the four corners of our regulatory remit, but there is no doubt that there is room for greater engagement and I commit to doing so.

- c. As part of our commitment to accountability, we must seek to justify our worth to our stakeholders and ultimately the users of utility services who pay out significant sums annually to keep the OUR operating. We are going to seek to do this both in quantitative and qualitative terms. In this regard, and this being our 20th year, we think that it is a good time to take

a close look at whether we have delivered value for money over the last two decades, but more on this anon.

- d. Finally I would wish to ensure that we use the benefit and advantage of technology to ensure that our public is able to interface with us on an ongoing and real- time basis. We will therefore be looking more critically on what we do in social media and on our website, etc

I am sure you will have your own advice for me and also wish to indicate your own areas of emphasis, so at this stage, I am simply going to open the floor for questions – and since I do not profess to have all the answers, I am happy to have so many of my OUR colleagues to provide responses.

Ladies and gentlemen, thank you very much.

Ansord E. Hewitt – Director General, O.U.R.

2017 March 16