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# Office of Utilities Regulation

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## DIRECTIVE

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DIRECTIVE TO JAMAICA PUBLIC SERVICE COMPANY LIMITED (JPS) TO CEASE AND DESIST THE CURTAILMENT OF SERVICE TO THE COMMUNITIES IN WHICH IT HAS IMPLEMENTED ITS TRANSFORMER PROTECTION PROGRAMME PILOT PROJECT

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**OFFICE OF UTILITIES REGULATION**

2021 October 15

**DOCUMENT TITLE AND APPROVAL PAGE**

**1. DOCUMENT NUMBER: 2021/ELE/013/DIR.002**

**2. DOCUMENT TITLE:**

**DIRECTIVE TO JAMAICA PUBLIC SERVICE COMPANY LIMITED (JPS) TO CEASE AND DESIST THE CURTAILMENT OF SERVICE TO COMMUNITIES IN WHICH IT HAS IMPLEMENTED ITS TRANSFORMER PROTECTION PROGRAMME PILOT PROJECT**

**3. PURPOSE OF DOCUMENT**

To direct the Jamaica Public Service Company Limited (JPS) to cease and desist the initiative to curtail service to communities in which it has implemented its Transformer Protection Programme Pilot Project.

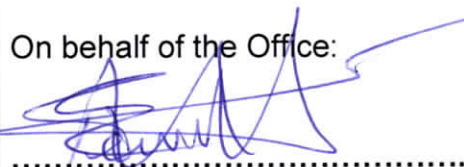
**4. ANTECEDENT PUBLICATIONS**

<b>Publication Number</b>	<b>Publication Title</b>	<b>Publication Date</b>

**5. Approval**

This document is approved by the Office of Utilities Regulation and the decisions therein become effective on 2021 October 15.

On behalf of the Office:



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**Ansord E. Hewitt**  
**Director-General**  
2021 October 15

# **OFFICE OF UTILITIES REGULATION**

## **DIRECTIVE**

**2021/ELE/013/DIR.002**

**(Issued pursuant to Section 4 of the Office of Utilities Regulation Act)**

**IN THE MATTER OF:**

**INVESTIGATION OF THE JAMAICA PUBLIC SERVICE COMPANY LIMITED (JPS) INITIATIVE TO CURTAIL SERVICE TO COMMUNITIES IN WHICH IT HAS IMPLEMENTED ITS TRANSFORMER PROTECTION PROGRAMME PILOT PROJECT**

**AND**

**THE OFFICE OF UTILITIES REGULATION ACT, 1995**

**AND**

**THE ELECTRICITY ACT, 2015**

**AND**

**THE ELECTRICITY LICENCE, 2016**

**AND**

**THE JAMAICA PUBLIC SERVICE COMPANY LIMITED'S STANDARD TERMS AND CONDITIONS OF SERVICE**

**TO: JAMAICA PUBLIC SERVICE COMPANY LIMITED**

**WHEREAS:**

- A. Pursuant to Condition 2(3) of the Electricity Licence, 2016, (the "Licence") the Jamaica Public Service Company Limited ("JPS/Licensee") shall "provide an adequate, safe and efficient service based on modern standards, to all parts of the Island of Jamaica at reasonable rates so as to meet the demands of the Island and to contribute to economic development".
- B. Condition 2(11) of the Licence provides that the Licensee shall not show any undue preference to or unduly discriminate against any Person or class of Persons as respects the sale or purchase of electricity or opportunity or access to the same.
- C. Condition 13(10(i) of the Licence provides,
- "Notwithstanding any other provisions, the codes of practice shall contain the following:*
- (i) *The Licensee shall at all times during the term of this Licence or any extension thereof furnish and maintain a Supply of electricity for public and private use in accordance with reasonable standards of safety and dependability as understood in the electric business..."*
- D. Condition 24(1) of the Licence also provides that:
- "The Licensee shall follow prudent utility practices, detailed technical design standards relating to the Transmission System and the Distribution System to cover areas such as technical criteria and conditions for connection of customers; reliability targets for major sub-systems of the Transmission System; the configuration and distribution of sub-stations and transformers and design standards for the Transformation System and Distribution System."*
- E. Sheet No. 208 of the Jamaica Public Service Company Standard Terms and Conditions of Service ("Terms and Conditions of Service") provides the basis on which the JPS can discontinue service to its customers:

## **“DISCONTINUANCE OF SERVICE**

*The Company may discontinue its service to the Consumer for any of the following reasons:-*

- (a) For non-payment on due date of bills for electric service. In this case, if the consumer has a deposit with the Company as a guarantee of payment of bills, the amount of the deposit may be applied to the payment of bills for service then due and the remainder, if any, returned to the consumer. The application of such deposit to the payment of unpaid bills shall not affect the Company's legal right to collect unpaid balances by available legal methods.*
- (b) For refusal or failure to make a deposit or increase a deposit, when requested, to assure payment of bills.*
- (c) When the Company has reasonable evidence that the consumer has been previously disconnected for non-payment at his present or any other location and is receiving service for his own use under a different name in order to avoid past payments due to the Company.*
- (d) Because of a dangerous condition on the consumer's premises in wiring or energy consuming devices.*
- (e) Because of a fraudulent use of the service or tampering with the Company's equipment.*
- (f) For any other violation of its Terms and Conditions which the consumer refuses or neglects to correct within 10 days of the date of a notice in writing from the Company specifying such violation and requiring its correction.*
- (g) On the request of the consumer, subject to any exercise agreement between the consumer and the Company as to unexpired term of service.*

E. Pursuant to section 4(d) of the Electricity Act, 2015 (Electricity Act), the Office of Utilities Regulation (OUR/Office) is responsible for the regulation of the electricity sector generally.

F. Also under section 4(1) of the Office of Utilities Regulation Act (the “OUR Act”) the Office is empowered to regulate electricity services and on its own initiative or at the request of any person carry out such investigations in

relation to the provision of electricity services as will enable it to determine whether the interests of the consumer are adequately protected.

- G. The OUR received complaints in 2021 July regarding prolonged outages in JPS's supply in several communities across the island, with claims of many occurring daily and lasting for prolonged periods. In addition, the OUR also received correspondence from the Mayor of May Pen, Mr. Winston Maragh about the continued outages affecting several communities in Clarendon. Member of Parliament for South East St. Andrew, Mr. Julian Robinson issued a release to the media calling for OUR's intervention to *"prevent the Jamaica Public Service Company Limited from continuing its practice of wholesale daily disconnection of entire communities, as a means of addressing electricity theft."* In his media release, Mr. Robinson asserted that the outages have prevented students from accessing online classes and persons working from home during the pandemic.
- H. Consequently, the OUR by letter dated 2021 August 5 wrote to JPS regarding the outages and among other things, requested that JPS respond to the following queries:
1. Whether JPS has implemented a system that triggers an outage when illegal connections are detected and/or usage reaches a specific threshold;
  2. Which communities are impacted;
  3. Whether or not customers are notified in advance about the implementation of the system and if so how were they notified;
  4. How many paying customers are affected and what measures, if any have been put in place to ensure that they are not prejudiced.
- I. JPS, however, disputed receiving the OUR's 2021 August 5 correspondence sent on 2021 August 9, which was later forwarded to them. Given the prominence of the matter in the media, the OUR on 2021 September 27 issued a Media Release indicating that it was investigating the reports of curtailment of service by JPS.
- J. After subsequent email exchanges between JPS personnel and the OUR regarding the provision of a response to its information request, the OUR by email dated 2021 September 28 requested a response to its August 5 letter.

JPS responded indicating that it was able to provide the information by the latest 2021 October 8. The OUR in turn by email advised JPS that the matter was urgent and therefore required a response by 2021 October 1.

- J. According to a report by Radio Jamaica News Online and the accompanying audio clip, in an interview on 2021 September 28, JPS's representative stated as follows:

*The Jamaica Public Service Company (JPS) says it has been forced to regulate supply to communities with high incidents of electricity theft in order to contain the cost to paying customers.*

*Audrey Williams, Public Relations Manager at the JPS, on Tuesday said some of the outages are also due to damaged equipment as a result of the high level of theft.*

*"We're having to pull back on capacity in order to protect people and their costs. Now, the customers in these areas, they're not being denied power supply, full stop, but yes, it is true that they are getting power at regulated intervals in order to try and contain the cost.*

*Admitting that there is "nothing about this (situation) that is ideal," she lamented that some paying customers were suffering, whether from "haphazard inconvenience" because of equipment damage or "regulated inconvenience" due to theft.*

*Miss Williams disclosed that the JPS has installed devices at some locations in order to protect its equipment and "prevent electricity from being used at a level that is unsafe."*

*"So when the devices chip in, what it does is it allows the equipment to live to serve another day. So instead of buying another transformer or buying another piece of equipment, at least it can come back on and you can use it and you can spare the paying customer some additional expense," she explained.*

- K. Given all that had transpired and having read and listened to the audio of the interview with JPS's representative, the OUR sent another correspondence to JPS dated 2021 September 29 requesting an urgent meeting on 2021 September 30 and a response to the following queries:

1. Whether JPS has implemented a system that triggers an outage when illegal connections are detected and/or usage reaches a specific threshold;
  2. Whether JPS has developed a documented policy to guide this practice;
  3. When was the system implemented;
  4. Which communities are impacted;
  5. Whether or not customers are notified in advance about the implementation of the system and if so how were they notified;
  6. How many paying customers are affected and what measures, if any have been implemented to ensure that their supply is not disrupted; and
  7. The legal basis on which JPS relies for its actions.
- L. JPS, by letter dated 2021 September 30 indicated the unavailability of its personnel to meet with the OUR at the time proposed and among other things, the need for it to be afforded "sufficient time to collate the information/data that will form the basis of our discussions". Consequently, alternative dates and times were proposed which were found to be unsuitable for the OUR. In response, the OUR by letter dated 2021 October 1, indicated that given that a mutually agreeable time that satisfies the OUR's sense of urgency could not be found, the OUR will forgo the meeting and JPS should provide its response to the information request set out in its 2021 September 29 letter by 2021 October 4.
- M. JPS, by letter dated 2021 October 4 submitted its response to the information request.
- N. Having reviewed the information received, the OUR for the first time became aware of the implementation of JPS's Transformer Protection Programme pilot project. The OUR became apprised of the nature and extent of the curtailment of service that has significantly affected JPS's paying customers in approximately eighty-eight communities across the island, with the outages being more widespread in various communities in St. Catherine, Kingston and St. Andrew South, Kingston and St. Andrew North, Clarendon and St. James.
- O. The OUR does not condone electricity theft which has impacted the provision of economical and adequate electricity services. On the other hand, the OUR has made it clear that it has not approved any policy or measure that would see the use of outages as a means to control electricity losses.



- P. As the regulator for the electricity sector generally and JPS being a regulated entity, the OUR is mindful of JPS's obligations to take steps to ensure the reliability, adequacy, safety and efficiency of the service that it provides to the public. However, the OUR is also mindful of the standard that requires utilities to observe the following relative to its paying customers:
- (i) minimize service interruptions to the extent practicable and economical;
  - (ii) manage well any interruptions (e.g., communicate with customers); and
  - (iii) restore service after an interruption within the shortest practicable time.
- Q. As such, based on the preliminary information presented, the OUR has determined that it is necessary to conduct a thorough investigation to, among other things:
- (i) interrogate the preliminary information provided by JPS; and
  - (ii) determine whether JPS's obligation to provide adequate reliable electricity supply to its paying customers is being fairly balanced against the company's obligation under the Licence to protect its equipment in areas that are prone to premature failure of the transformer.
  - (ii) determine whether JPS has acted in breach of its Licence obligations, Terms and Condition of Service, or relevant legislation.
- R. The OUR is of the view that given the expanse of the pilot and the frequency and duration of the outages complained of, there is a real risk that paying customers will be deprived of adequate and reliable electricity as required by the JPS's Licence obligations.
- S. Consequently, having considered the information submitted by the company, the Office is of the view that the operation of the Transformer Protection Programme pilot project should be suspended for a period of ninety (90) days, to allow the OUR to complete its investigations and publish its findings.
- T. Section 4(2) of the OUR Act provides:
- “(2) The Office may, where it considers necessary, give directions to any licensee or specified organization with a view to ensuring that –*
- (a) the needs of the consumers of the services provided by the licensee or specified organization are met; and*

- (b) *the prescribed utility service operates efficiently and in a manner designed to –*
- (i) *protect the health...*
  - (ii) *protect and preserve...*
  - (iii) *afford to consumers economical and reliable service.”*

U. Section 4(3) of the OUR Act provides:

*“(3) In the performance of its functions under this Act the Office shall undertake such measures as it considers necessary or desirable to –*

- (a) *...*
- (b) *Protect the interest of consumers in relation to the supply of a prescribed utility service;*
- (c) *...; and*
- (d) *Promote and encourage the development of modern and efficient utility services*
- (e) *Enquire into the nature and extent of the prescribed utility services provided by a licensee...”*

V. According to section 9 of the Office of Utilities Regulation Act (the Act), the Office may require measures to be taken, as set out below:

***“9. Power to require measures to be taken.***

*9. (1) Where it appears to the Office that a licensee or specified organization, as the case may be, is not fulfilling its obligations under its licence or enabling instrument, as the case may be, the Office may, by memorandum in writing to the licensee or specified organization, require the licensee or specified organization, within the time specified in that memorandum, to take such remedial measures as may be so specified.*

*(2) Any licensee or specified organization which fails to comply with the requirements of a memorandum issued by the Office under this section shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two million dollars...”*

The Office **HEREBY DIRECTS** that JPS takes remedial measures to **IMMEDIATELY CEASE AND DESIST** its current actions and suspend the operation of the Transformer Protection Programme pilot project that curtailed electricity services in the affected communities and is **PROHIBITED** from taking any similar actions in any other community across the island, as of the effective date of this **DIRECTIVE**.

**TAKE NOTICE** that failure by JPS to comply with this Directive within the time period specified herein, will render it liable to enforcement action pursuant to section 9 of the OUR Act.

**AND TAKE FURTHER NOTICE** that this Directive becomes effective on the 15<sup>th</sup> day of October 2021.

**AND TAKE FURTHER NOTICE** that this Directive shall be in effect for a period of **Ninety (90) days** from the effective date hereof, unless otherwise extended by the OUR.

**BY ORDER OF THE OFFICE OF UTILITIES REGULATION**

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**Ansord E. Hewitt**  
**Director-General**

2021 October 15