

“THE OUR IS NOT A CONSUMER ADVOCACY BODY: IT PROVIDES REGULATORY BALANCE”

THE GLEANER, SUNDAY | MARCH 6, 2022



Whose side are you on, OUR?

This refrain comes in various forms from utility customers and is often echoed in mainstream and social media.

Public comments on the perceived role of the OUR, especially following an announcement of a utility tariff decision, have not escaped the regulator's scrutiny, even while it has on many occasions, sought to remind the public of its powers and obligations under the OUR Act and other sector-specific legislations. There is seemingly a misperception held by utility consumers that the OUR was set up solely to secure only their rights and interests. From this perspective, it is sometimes assumed that the OUR should only make decisions that cater to the consumers' most pressing expectations, notwithstanding the prevailing circumstances.

Some utility consumers are of the view that in these harsh economic times, the OUR must 'read the room' when making decisions, and act accordingly. Meaning, that the OUR should only take into consideration the difficulties being experienced by customers arising from loss of wages, increases in the cost of living, downturn in business, volatile global prices, etc.

Is the OUR obliged to do so? Is it a consumer advocacy body? These questions bring into sharp focus the role and mandate of the OUR.

Consumer advocacy is the protection and promotion of the welfare and rights of consumers. A consumer advocacy body - usually a lobby group - is the voice of consumers on policy matters and other decisions that impact them and their wellbeing.

The OUR began operations in 1997 with a mandate to provide effective regulation of utility services. This kind of regulation is fundamental to the well-being of



**ELIZABETH BENNETT MARSH -
PUBLIC EDUCATION SPECIALIST,
OFFICE OF UTILITIES REGULATION**

people in modern society and entails ensuring that consumers have access to modern, safe, reliable, affordable, and quality utility services while providing the opportunity for utilities or service providers to make a reasonable return on their investment.

The OUR's mandate includes establishing and maintaining transparent and objective rules for the regulation of utility services, advising the government on utility matters as required, making recommendations on service supply licence applications, and ensuring that utility consumers enjoy an acceptable quality of service at a reasonable cost.

The OUR, being an independent and impartial economic regulator, operates under the constraints of various legislations and licences which detail clear objectives, powers and procedural obligations as well as define the scope and scale of what it is empowered to do. For example, the Electricity Act, 2015, sets out clear guidelines on when the Jamaica Public Service Company Limited (JPS) can submit tariff review applications to the OUR, and the parameters within which such applications should be assessed by the OUR. The OUR, as a quasi-judicial body, is obliged to make objective decisions based on technical, economic and legally sound reasoning. Therefore, it does not have the latitude to make decisions that are politically or emotionally motivated. Its firm adherence to making decisions, guided by relevant legislative provisions, has resulted in decisions that have proven, largely, to withstand scrutiny whether through public discourse or before a tribunal or a court of law.

“THE OUR IS NOT A CONSUMER ADVOCACY BODY: IT PROVIDES REGULATORY BALANCE”

ELIZABETH BENNETT MARSH -
PUBLIC EDUCATION SPECIALIST,
OFFICE OF UTILITIES
REGULATION



THE GLEANER, SUNDAY | MARCH 6, 2022

Arguably, it is out of a collective sense of confidence in the OUR and its decisions, that creates situations where matters that do not fall within its regulatory remit are sometimes referred to it for advice and resolution.

So to answer the question posed as to whether the OUR is a consumer advocacy body, it is not. However, the OUR is required to keep regulatory issues in balance. Consequently, it is obliged to consider, among other factors, consumer interest in keeping with the provisions for the protection of consumers set out in the OUR Act, the Telecommunications Act, the National Water Commission Act, the Electricity Act, 2015 and the Electricity Licence, 2016.

In its 25-year history, the OUR has made major, impactful decisions in the interest of consumers. These are just a few:

- Developed Guaranteed Standards for National Water Commission (NWC), JPS and private water providers, which hold these utility providers to basic service standards, and if breached, attracts compensation to affected customers;
- Reduced Mobile Termination rates in 2012. These are fees mobile telephone companies charge other carriers to terminate calls on their networks. OUR's decision resulted in a significant reduction of overall rates charged by the major telecoms companies whether for calls to their network or to another; -
- Introduced Number Portability in the telecommunications sector in 2015. This places more power in the hands of telecoms customers by allowing them to change their mobile or landline service provider and keep their existing phone numbers. The guidelines are now being reviewed to ensure, among other things, that the interests of customers continue to be protected;

- Approved measures in the electricity sector that provide cost-effective options to customers. These include transitioning from a two-period to a three-period Time of Use (TOU) rate regime and the extension of TOU rates to more customer categories, as well as the introduction of pre-paid (pay as you go) rates;
- Spearheaded international procurement processes to identify over 115MW of renewable energy capacity pursuant to a directive in 2015. The country now has a renewable energy mix of mainly wind and solar plants provided by Wigton Windfarms, Blue Mountain Renewables, WRB Enterprises Content Solar, and Eight Rivers Energy Company.
- Played a pivotal role in the modernization of the electricity sector with the introduction of cheaper and environmentally friendlier natural gas and the replacement of old inefficient oil-fired generating plants with modern gas-fired plants.
- Approved a special K-Factor Fund for the NWC. This OUR-monitored facility allows the NWC to use a pre-determined percentage on customers' bills to implement non-revenue water (NRW) reduction, sewerage and other specifically approved operational efficiency projects. This Fund has assisted the NWC to deal with the shortage of capital that restricted its ability, in the past, to take on critical projects. A sufficient reduction of the NRW should realise more consistency in the water supply including during periods of drought.
- Despite the OUR not being a consumer advocacy body, it continues to ensure that utility consumers' interests are always taken into consideration in the decision-making process, and that decisions are made in the best interest of all the stakeholders it serves, as it has been doing for the last 25 years.