

**Post-Cabinet Press Briefing
Office of Utilities Regulation Presentation
2024 July 31**

INTRODUCTION

The Office of Utilities Regulation (OUR) has oversight of the main utilities, namely electricity, water and sewerage and telecommunications. We accept that a most vital part of that responsibility is to hold the providers to their obligation to provide service, preferably uninterrupted, but in the event of interruption, however caused, to restoration at the earliest time possible.

I also consider it important in this presentation to say that depending on the scale and duration of an interruption the OUR is required to undertake a forensic examination into causation, action before, during and after the event and to determine if there have been breaches. In this context and as a public body, the OUR, in the exercise of its functions, and in particular, its decision-making, employs natural justice principles that embody a duty to act fairly toward all of its stakeholders.

This includes the reservation of judgment on matters until it investigates and verifies facts to avoid suggestions of bias and: consultation with affected parties observing their right to be heard. The OUR also provides reasons for its decisions to ensure that the regulatory best practices of accountability, transparency, and consistency are applied.

This does not, however, prevent us from insisting that the utilities exercise due diligence to restore service in the shortest possible time and to provide customers with an update on the progress reported to us, our assessment of the situation, the initiatives we have taken, the instructions we have issued to the utilities and our expectation for the future. My presentation today is guided by these considerations.

Pre-Hurricane Beryl Activities

All the major utilities are required to initiate their disaster planning process and activate “preparedness and readiness” protocols prior to the beginning of the hurricane season to enhance their ability to respond to, and recover from, the impact of hurricanes likely to occur during the season. The OUR requested and received these reports.

In the case of the Jamaica Public Service Company Limited, (JPS) it is required to detail in its report:

- Its maintenance schedule for the transmission and distribution network,
- The scope of work carried out and work in progress,
- The stockpile of materials/components in inventory specifically designated for hurricanes and other disaster events (such as poles, transformers, conductors, switches, fuses, etc.),
- Disaster simulation exercises, and
- System restoration resource requirements, in anticipation of hurricane activity or major storm events, during the period.

As is the practice, JPS submitted a report on its hurricane preparation for 2024 to the OUR before the start of the season, which was reviewed and discussed with the company prior to Hurricane Beryl.

There is also an established framework in place that outlines the strategy and procedures to guide the restoration process after a disaster event, system emergency, or major system failure. This also involves procedures for the coordination of restoration activities between key stakeholders including government agencies and disaster preparedness organisations.

Post Beryl Activities

Following the passage of Hurricane Beryl, this restoration strategy was deployed by the JPS under the regulatory oversight of the OUR, with communication and coordination between generating entities, system users (including health facilities), and other entities.

Since the commencement of the restoration activities, the process has been under constant regulatory monitoring, and the OUR has had several meetings with the JPS to address certain developments and issues in the system

restoration process. We have conveyed to JPS in all our engagements that we expect that it will exercise all diligence to expedite restoration.

In our last meeting with JPS on Monday, July 29 they assured us that all service will be fully restored by 2024, August 12, in the most critically damaged areas, including Westmoreland, Manchester, Clarendon and St. Elizabeth, Eastern Hanover and in Western Hanover for which it claims a peculiarity, by August 15. I received a report this morning, however that now has Western Hanover, scheduled to be fully back by August 12 as well. That report also indicated that the number of customers still not receiving service stand was 21,514 Monday July 29 and is shortly to be updated to include connections made on the 30th.

We are aware that these dates are very small comfort to customers who have been without service since July 3, and so we have urged the company to take every possible step, including the engagement of additional resources, to shorten these timelines.

In any event, given that the company has missed previously established restoration dates, the OUR will be issuing a directive for it to comply with the timelines it has given. If they are missed, the JPS will be required to

show that it took all reasonable steps within its means to have secured compliance.

In executing its regulatory mandate, the OUR has had to address billing issues to safeguard customers' interests. In order to provide certainty to customers and to hold the utilities accountable for its quality-of-service performance, the OUR prescribed Guaranteed Standards, which state that JPS and NWC should issue no more than two consecutive estimated bills to customers provided there is access to the meter. In addition, estimated bills should be determined based on the average of the last three (3) actual readings. This holds during normal times, however in the case of a *force majeure* situation, the responsible Minister can provide a formal waiver upon an application by JPS.

In the wake of Hurricane Beryl, when it came to our attention that JPS had notified its customers of a widescale use of estimated bills, the OUR summoned the company to a meeting to get details on customer impact, and whether there could be other considerations. At that meeting, JPS reported that as of July 22:

- 485,000 bills were issued.

- 363,000 bills were based on **actual** meter readings and
- 122,000 based on **estimated** consumption.

A further 226,000 bills are to be issued, 170,000 of which would be actual and 56,000 estimates. For the estimates, 36,000 relate to customers with smart meters and 20,000 to manually read meters.

Arising from this engagement with JPS, we have approved its proposal to adopt the following approach with respect to some 56,000 estimated bills that were not already issued:

- (a) For 36,000 of these bills which are for customers with Smart Meters – the bill for the cycle is to be issued based on the last **recorded** reading;
- (b) For the remaining 20,000 which are for manual meters, the bills should be issued applying a factor of 0.6 to take account of days in the billing cycle for which they had no electricity supply. This means that JPS will assess affected customers' bills at 60% of their normal charge. Put another way, these customers will see a 40% reprieve on the estimated bills they would otherwise have been required to pay.

In addition to its request for the OUR to approve the application of the 0.6 factor to the consumption estimate based on the last three actual readings to determine the net consumption, JPS has also requested the OUR to:

- i. Suspend or waive the requirements relating to the treatment of bills that show a monthly variance or +/- 30%;
- ii. Suspend or waive the OUR's directive to adhere to a maximum of 31 days of service for the August billing period.

As a practical consideration, the OUR has agreed to the above request.

The OUR also instructed JPS to revert to it on the proposed treatment of the 122,000 customers who had already received estimated bills, and in particular those among that grouping who had significant number of days of no electricity usage. We are awaiting JPS's proposal on this.

After our meeting with JPS, the company announced a 20% discount to approximately 350,000 Residential customers who use 150kWh or less of electricity and a one-off \$1,500 top-up electricity credit for prepaid residential accounts.

The OUR has commended JPS on these initiatives but has also pointed out to the company that for customers still without service this does not represent a benefit. JPS has assured us that this situation will be taken into consideration in its dealing with customers whose electricity supply is still not restored. Additionally, JPS is also to clarify the methodology to be applied to effect the discount.

I should also state here that, similar to what happened during COVID-19, JPS has applied for the waiving of its Guaranteed Standards and Overall Standards. For the Guaranteed Standards, JPS has asked that it not be held accountable for breaches which would normally require financial compensation to customers. This request was made through the Minister – as is the requirement under the JPS Licence. The Honourable Minister has in turn, sought the OUR’s advice. As part of the analysis of the application, we will gather additional information and assess the extent to which events outside of its reasonable control have negatively impacted JPS’s performance of its licence obligations, and which could not have been prevented or overcome by reasonable diligence, as contemplated by its licence.

The NWC has also applied for the waiver of some of its Guaranteed Standards, and the OUR is currently reviewing its request.

I want to turn now to the updates on the restoration of services that we have received from the major providers.

Regarding the telecoms providers, we can report that as at 2024 July 29:

- Digicel reported that it has restored service to 96% of its Mobile customers and to 98% of its fixed customers.
- Restoration has moved FLOW's mobile population coverage to 92, and service has been restored to 91% of the fixed customers that were impacted by Beryl.

The telecoms providers report that one of the factors impacting full restoration is the lack of commercial power, which caused some cell sites to continue to be off-air. Some of these sites have generators as a backup energy source, while some rely solely on electricity provided by JPS. The initial reports received indicated the number of fixed network nodes and customers impacted and the number of cell sites off-air in each parish.

The NWC also reports that the lack of electricity hampered its restoration efforts in some instances.

As at 2024 July 25, the NWC reported that:

- 94% of the 179 pumps it identified as Critical have been energised as at 10:00 pm on Thursday, July 25 – JPS is reporting this figure at 96% as of 1.00 PM yesterday.
- 318 of its pumps are being monitored by JPS (including the critical list identified by the NWC). 86% of this total were energised as at 10:00pm on Thursday, July 25 – JPS is reporting that NWC recently added 17 pumps to this list making it 335 and that as of yesterday the figure is still 86% of that total.

Why is it taking so long?

It is to be understood that power restoration after a major event is a very complex undertaking. At its simplest, it's a matter of assessing whether any damage was done to the infrastructure, and if there are any materials such as metals like Zinc sheets impacting power lines, posts, etc. – If not, the line is re-

energized. There must also be acute attention to the safety issue. JPS has asserted that the more complex matters are what is causing the delays and giving rise to the understandable impatience among customers. The company has also suggested that the current configuration of its systems, geographical terrain, and access issues are among the peculiarities contributing to this. Some of those matters must be carefully considered as an examination is done in the event's aftermath.

Conclusion

What is the OUR's authority?

Two key obligations of JPS under the regulatory regime include the provision of an adequate, safe, and efficient electricity service based on modern standards at reasonable rates to all parts of Jamaica. The other is that JPS shall maintain and repair all relevant assets throughout the term of the Licence in accordance with good industry practice.

The OUR Act, Electricity Act, and the Licence provide specific powers for the OUR, creating a tool kit by which it exercises its function. These include

powers to direct, investigate, conduct enquiries, request information, review maintenance plans, and approve and monitor quality standards.

As I outlined earlier, the OUR has been exercising these powers prior to the hurricane season and in the wake of Hurricane Beryl. We will also be conducting the post-mortem of the event, which is even more critical in learning lessons for the rest of this season and beyond.

As I indicated earlier, we will also be issuing JPS with specific directives with respect to the remaining timelines with which we expect strict compliance.

We are monitoring the restoration of all utilities and doing *ad hoc* verification and surveillance. Ultimately, as well, there is an audit function for conformity.

We have been careful to manage the regulatory reporting burden we impose on the utilities so as not to impact restoration efforts which take priority. Some of the initiatives announced by the utilities by way of discounts, bills adjustments, suspension of disconnection, and additional time to pay, are the direct result of engagement with our providers.

I should also note that our examination of reports submitted by JPS and the application of Q-Factor penalties indicated network issues that require resolution. In discussions, JPS gave a clear commitment to resolving them, and indeed the OUR is aware that this process was in train. The extent to which some, or all of these were overtaken by Beryl is a matter for subsequent determination.

Typically, in a regulatory regime there are provisions for sanctions and given that this has been raised specifically to JPS I would wish to point out that there are some provisions for this in both the application of the Guaranteed Standards and the Q-Factor regimes. Under this Q-Factor, sanctions are applied for underperformance.

There are also other powers of sanction that require proceedings through the court and judicial process, but this is clearly not a provision for emergencies.

There is also legislative provision for the imposition of a Fixed Penalty without going to court but this is still awaiting approval.

I wish to close with a focus on regulatory initiatives beyond Beryl.

Every disaster provides us with opportunities to revisit our pre-, midst of and post-disaster arrangements. Notably, out of previous disasters came the Electricity Disaster Fund, to which there will be a resort. In the ensuing months we will need to take account of the same lessons learned from Beryl and how we can further harden our infrastructure and make them more resilient. Notably, however, there is always a tradeoff between costs and these features. However, we will not resile from engaging on these issues to provide the best way forward.

Another notable and relevant initiative is the work we started last year to look at what *force majeure* considerations can be put in place as a standard, for customers, and not having these solely be at the discretion of the utility providers. That work is even more timely after this disaster and will give further impetus to complete it.

We have also developed a protocol for reporting on telecommunications outages which will be implemented later this year. The decision will also require national roaming in the case of disasters/emergencies and require Licensees

to conduct an annual risk analysis of their critical facilities in accordance with their established internal audit procedures and take measures to reduce their network vulnerability. It will also require licensees to prepare and submit to the OUR disaster preparedness and business continuity plans, which shall be in accordance with the requirements and recommendations of international standards such as ISO 22301 for business continuity management systems and plans and ISO 21110 for emergency preparedness and response plans.

We are also in discussion with MSETT regarding the development of a National Emergency Telecommunications Plan.

This is a strategy that indicates the telecom-supported activities during disasters/emergencies, the roles and responsibilities of all stakeholders, and the step-by-step actions to be taken by each stakeholder in the different phases of the disaster management cycle.

The need to focus on how to prevent one utility from becoming a single point of failure is also flagged in the wake of Beryl. There is indeed much work being done and to be done. Maybe another of the immediate post-Beryl lessons is that we should be less silent about it. -0-