



**Board of Directors Meeting of the  
Utility Regulation and Competition Office (“OfReg”)  
held on Thursday, 18 June 2020, 9:00 am  
(Via Virtual Conference)  
General Meeting 4 of 2020**

**Minutes**

**In attendance:**

Dr. the Hon. Linford Pierson, Chair (Chair)  
Mr. Ronnie Dunn, Non-executive Director (RD)  
Mr. Rudy Ebanks, Non-executive Director (RE)  
Mr. Paul Byles, Non-executive Director (PB) (left 9:29 am and returned at 10:29 am)  
Mr. Gene Banks, Non-executive Director (GB)  
Mr. Malike Cummings, Chief Executive Officer (CEO)  
Mr. Duke Munroe, Chief Fuels Inspector/Director Fuels Markets (CFI)  
Mr. Gregg Anderson, Executive Director Energy & Utilities (EDEU)  
Mr. Alee Fa’amoe, Executive Director ICT (EDICT)  
Ms. Alison Maxwell, Assistant General Counsel/Secretary (AGC/S)  
Mr. Christen Suckoo, Chief Operating Officer (COO) (by Board Directive) (joined at 9:31 am)

**Start: 9:23 am End: 4:00 pm**

**1. General**

**1.1 Welcome and Prayer**

The Chair welcomed all attendees and said a prayer.

**1.2 Approval of Agenda**

Approved as amended. Moved by PB and seconded by RE.

**1.3 Chair’s Remarks**

*Pre-Board Meetings for Executive and Non-Executive Directors*

At the commencement of the operations of OfReg on 16 January 2017, under the Utilities Regulation and Competition Law (URCL) 2016, voting privileges were extended to the Chair and CEO only. As a result of this rather unusual Board arrangement it was essential for the Chair and CEO to meet in monthly pre-Board Meetings to ensure that OfReg was managed in the most efficient and effective manner possible. Also, the lack of proper merger planning resulted in a number of teething problems during the embryonic stage of this first of its kind ‘multi-tiered statutory authority’ within the Cayman Islands. However, the necessity for the pre-Board Meetings gradually reduced as the voting arrangements on the Board were regularized. Also, in an attempt to encourage and implement the “One OfReg”, I decided that it would be in OfReg’s best interest for the Chair to

extend equal courtesy to both the Executive and Non-Executive Directors of the Board as regards my attendance at their pre-Board Meetings. This decision was reached with the understanding that I would be available to attend any other meetings of the Executive and/or Non-Executive Directors as necessary. Further, with the enactment of the URCL (2019 Revision), together with PAL (2020 Revision), OfReg is now well represented by ten members of the Board of Directors (BOD)—comprised of five Non-Executive Voting Directors (NEDS) and the Chair who is also a Non-Executive Director, and four Non-Voting Executive Directors, including the Chief Executive Officer, which comprises the BOD. In addition, the Board Secretary and the Chief Operating Officer comprise the authorised Board group.

### *The PAL (2020 Revision) v. The URCL (2019 Revision)*

In regards to interpreting inconsistencies with other laws, section 3 of the PAL states: “In the event of any inconsistency between the provisions of this Law and the operation of any other law, the provisions of this Law shall prevail to the extent of the inconsistency.” It is of interest to note that section 3 (1) of PAL further states that: “The purpose of this Law is to provide uniform regulation of the management and governance of public authorities.” The lofty objectives of the PAL, notwithstanding, the crafters of the Law failed to recognize the uniqueness of OfReg, **which is the only multi-tiered statutory authority within the Cayman Islands**—OfReg is the result of the amalgamation of two statutory authorities (The Information and Communication Technology Authority (ICTA) and the Electricity Regulatory Authority (ERA), the Petroleum Inspectorate—a former government department, and the regulatory functions of the Water Authority. As a result of this merger, OfReg is forced to comply with provisions of the PAL which is designed for single/stand-alone statutory authorities, which should be regularized.

It was against the foregoing background that the Government engaged the expertise of one of the Caribbean’s leading regulatory specialists to craft the URCL, 2016. The Government in its wisdom obtained the professional services of J.P. Morgan (of blessed memory), an experienced regulator to draft the URCL taking into account the uniqueness of OfReg. It is therefore most important for the OAG to fully appreciate the purpose/relevance of the URCL. To not recognize the practical differences between the management and audit of a multi-tiered statutory authority compared with a single/stand-alone statutory authority is undesirable.

### *Protection of OfReg’s Sensitive Regulatory Information Required*

I am concerned about OfReg’s sensitive commercial information being inadvertently made public, which is possible when the OAG’s Reports are laid on the Table of Parliament. While I fully respect the work and authority of the OAG, I am nonetheless cognizant of the importance of section 19 (4)

of the PAL (2020 Revision) regarding the need to redact regulatory decisions in the minutes of OfReg's Board Meetings to protect such information from unauthorized individuals. OfReg should therefore ensure that written guarantees of confidentiality are obtained when providing OfReg's unredacted Board minutes to the OAG or otherwise.

## **2. Declaration of Interest – N/A**

## **3. Minutes of Previous Meetings and Round Robin Resolutions**

### **3.1 Approval of the Minutes of:**

- General Meeting no. 3, held 14 May 2020 v3. Approved as amended. Moved by RD and seconded by RE.

### **3.2 Matters arising from Minutes**

#### **3.2.1 2020 Annual Plan**

#### **3.2.2 2018 and 2019 Annual Reports**

The 2018 Annual Report is completed, posted on the website and sent to the Cabinet Office. RD questioned whether the Annual Report should have been published on the website, before receiving the Cabinet's approval as typically the Cabinet gives its approval prior to public dissemination of annual reports. The CEO was not aware of the procedure, and therefore will arrange for the removal of the Annual Report from the office website immediately.

### **3.3 Round Robin Resolutions**

#### **3.3.1 Approval of PR Strategy Paper and ToR**

The Committee discussed the proposed strategy with the CAPE. There were concerns that the PR Strategy may have overlapped with the CAPE's duties. The COO reviewed the document, and did not see any conflict with what was presented. The Management is presently preparing a framework to distinguish the duties of the CAPE vs. the PR Agency.

## **4. Chief Executive Officer Report**

The CEO presented a summary of his report, which was included in the Board papers.

#### **2020 Annual Plan**

*Motion:* The Board to grant approval of the 2020 Annual Plan, which was inserted in the Board papers.

Moved by RE. All agreed. CARRIED.

#### **2019 Annual Report**

A revised draft of the 2019 Annual Report will be circulated as soon as possible for a round robin vote. The Office presently has funding to engage a PR Company to prepare and finalise the annual report.

The terms of reference (ToR) have been prepared to engage the services of a PR/Marketing Company. The ToR will be shared with the PR Committee.

*Motion:* The Board to grant approval of \$25,000 to be transferred to the Public relations budget for the continuation of external PR support.

Moved by RD and seconded by RE. CARRIED.

Independent Monitoring of Electricity Consumption

*Motion:* The Board to direct the CEO to prepare a board paper regarding the independent monitoring of electricity consumption by consumers.

Moved by RD and seconded by RE. All in favour. CARRIED

- 4.1 CEO's Responses to Deputy Chair's Queries – Responses were prepared and included in the Board papers. The draft Return to Work Plan is to be finalised by SMT. Management will monitor the situation regarding the Pandemic and will take lead from the CIG, Deputy Governor's and public Health officials directives. Staff will continue to work remotely as much as possible. Board should be consulted and SMT cannot make the decision on their own. It is up to each individual office/section as to how the staff will approach staff's return to the Office.
- 4.2 Succession Plans Implementation – the succession plans for the SMT were revised and updated, and placed in board papers folder. CEO stated that the Performance Management System needs to be put in place. COO is presently reviewing a performance management structure. Looking at how to use current HR system for this process. Next step will be to meet with each of the Executive Directors and confirm what objectives need to be inserted for each staff member. CEO will be in a position to meet with all executives in two weeks.
- 4.3 Approval of Offering or Receiving Hospitality, Entertainment or Gifts Policy –  
*Motion:* The Board to grant approval of the Offering or Receiving Hospitality, Entertainment or Gifts Policy. It was noted that the document was an adoption of the CIG Policy as instructed by Cabinet.  
Moved by RE and seconded by RD.
- 4.4 Approval of Professional Indemnity Insurance Policy Renewal – Previous policy just covered legal team. Proposed policy will cover all staff and the premium should not be changed. Board directs the CEO to obtain a second opinion from the A.G Chambers, especially in light of the provisions in the Public Authorities Law. (Deferred)
- 4.5 Confirmation of adoption of all items of Cabinet 2018 Memo  
*Motion:* The Board acknowledges receipt of the memorandum received from the Cabinet dated 22<sup>nd</sup> August 2018, approved the listed policies and confirms that the Office was directed to implement the policies accordingly.  
Moved by RD. Seconded by RE. CARRIED
- 4.6 Expiry of Executive Directors contracts  
The Board was informed that the contracts of the EDEU and the EDICT expires on 31 August 2020, and the Fuels Inspector post will be re-advertised next week.
- 4.7 CEO Performance Agreement  
The CEO Performance agreement is presently with the Board for approval, and is ready for execution. The CEO will commit to the preparation of the performance agreements with the Executive Directors by next month (July 2020).  
*Motion:* The Board to grant approval of the 2020 Performance Agreement, and authorisation for the Chair to execute the agreement accordingly.

- Moved by RD and seconded by PB. (Carried)
- 4.8 Update on status of Papers outstanding with Cabinet  
The COO gave an update and confirmed that all papers that were submitted will be presented to the Cabinet for consideration, over the next two to three Cabinet meetings. The COO will keep the Board updated.

## 5. Regulatory Matters

### 5.1 Energy and Utilities

#### 5.1.1 Determination on the Proposed Water Sector (Licence, Fee, Offence and Penalty) Regulations

The EDEU gave an update and is recommending that the Board approve the final determination paper and the final proposed Regulations, which are in the Board papers folder.

*Motion:* The Board to grant approval of the final Determination paper and the final proposed set of Regulations, and direct the EDEU to prepare a Cabinet paper and communicate the Office's recommendation accordingly.

Moved by RE and seconded by GB. CARRIED

#### 5.1.2 Water production and supply without a licence. Post consultations and Final Determination

Already addressed in the E&U Monthly Dashboard, which is in the Board Papers.

#### 5.1.3 CBPL Licence and Compliance

The EDEU informed the Board that he is addressing the compliance of the Cayman Brac Power & Light Company Ltd ("CBP&L") in conjunction with the Fuels Team. He also informed the Board that the Office received the cheque for the outstanding licensing fees on 13 June 2020 from CBP&L. However, CBP&L informed the EDEU that it is behind on getting audited financials, but the EDEU reminded CBP&L that it can submit unaudited financials in the meantime.

### 5.2 Fuels

#### 5.2.1. CFI to probe slow price changes at pumps

The CFI provided an overview of the model used to monitor fuel prices locally and globally as required under the law, and indicated that the reduction in prices evidenced after the pandemic does not appear to accord with the reducing global price trends. The CFI informed the Board that the Office will probe these matters, and report on the findings to inform further action.

#### 5.2.2 MAB Share Transfer Update

The Office continues to work with MAB to consider and properly advise its recommendation for an expedited decision.

### 5.3 ICT

#### 5.3.1. Cabinet Directive "Achieving full Liberalisation of the Cayman Islands Telecommunications Market and Developing a Robust Internet Infrastructure."

The EDICT informed the Board that he was going to seek clarity from the Ministry to confirm contents of the directive and what the Ministry would like

the Office to achieve. The EDICT also noted that the incumbent Licensee was actively resisting a couple of the directives.

## 6. Board Matters

### 6.1 Board Administration

6.1.1 Board Action Item Log ('BAIL') – Deferred.

6.1.2 Commission for Standards in Public Life - Annual Declaration Submission

The Board Secretary informed the Board that the NEDs should complete the Schedule 2 form, and the applicable employees of OfReg should complete the Schedule 1 form.

6.1.3 Regulatory Compliance is to be part of Sector Dashboard Report

6.1.4 Consideration of outsourcing Fuel Inspection

The Board discussed the possibility of outsourcing fuel inspections to another entity.

### 6.2 Board Committee reports

6.2.1 Risk and Audit Committee (RD (Chair), PB and PE) – RD proposed that another member of the Risk and Audit Committee be the acting Chair. OAG gave the recommendation that the chair be a member of the Board. PE nominated PB and RD seconded the nomination. PB accepted the nomination, and confirmed that he is happy to act in the role as long as it is permitted by law. The post will be advertised, and there will be a review of the Utility Regulation and Competition Law in order to determine what revisions need to be made in accordance with the Office of the Auditor General's recommendation.

*Motion:* Whereas the position of Risk & Audit Chair has become vacant by way of resignation of Mr. Abraham Matthew; and

Whereas there are time sensitive matters to be considered by the Risk & Audit Committee; and

Whereas the Office of the Auditor General, in its 2020 statutory triennial audit of OfReg recommends that the Chair of the Committee be a member of the Board; and

Whereas it is prudent for the Risk & Audit Committee to meet for the consideration of matters pertinent to the continued good governance of OfReg;

Be it now resolved that:

(a) The Board appoints a member of the Board to serve as the presiding officer for meetings of the Risk & Audit Committee in an acting capacity; and

(b) PB be nominated as the acting chair of the of Risk & Audit Committee until there is a change in legislation (as recommended by the Office of the Auditor General); or a substantive postholder can be recruited.

Moved by RD. All is favour. CARRIED.

6.2.2 Public Relations Committee (RD (Chair), PB, PE, RE and CEO)





- Report/Minutes of the PR Committee Meeting held on 3 June 2020.  
RD moves a nomination that EDICT joins the Committee. EDICT accepts the nomination. All approved.

RD gave a summary of Committee's recommendations in regard to the PR Strategy.

6.2.3 Interim Investigation Committee (GB (Chair), PB, PE and COO) – CEO received report on the RFQ. Further discussions are to be held with the COO.

6.2.4 Innovation Committee (PB (Chair), PE, RE, EDEU and EDICT) – No update.

6.2.5 Remuneration and Human Resource Committee (PE (Chair), RD, RE, PB and EDICT) – Table for consideration OfReg's HR Manual  
*Motion:* The Board grants approval of the HR Manual which is included in the Board papers, which took into consideration and incorporated the responses submitted by the Senior Management Team, with a review of the Manual to be done in six (6) months.

Moved by PE and seconded by RD. CARRIED

6.2.6 Finance Committee (RD (Chair), PB and FC)  
No update.

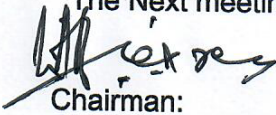
**7. Any Other Business**  
None

**8. Adjournment: Date of next meeting**

*Motion:* The meeting to be adjourned.

Moved by RD and seconded by RE.

The Next meeting is scheduled to be held on 16 July 2020 at 9 am.

  
Chairman:

Date: 3<sup>rd</sup> August 2020