



**Board of Directors Meeting of the
Utility Regulation and Competition Office (“OfReg”)
held on Thursday, 30 July 2020, 9:00 am
(Via Virtual Conference)
General Meeting 5 of 2020**

Minutes

In attendance:

Dr. the Hon. Linford Pierson, Chair (Chair)
Mr. Rudy Ebanks, Non-executive Director (RE)
Mr. Paul Byles, Non-executive Director (PB)
Mr. Gene Banks, Non-executive Director (GB)
Mr. Phillip Ebanks, Non-executive Director (PE)
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)

Apologies:

Mr. Ronnie Dunn, Non-executive Director (RD)

Start: 9:10 am End: 2:58 pm

1. General

1.1 Welcome and Prayer

Chair welcomed all Board Members and said a prayer. RD sent in his apologies.

1.2 Approval of Agenda

Motion: The Board approves the agenda as amended. Moved by RE and seconded by GB.

1.3 Chair’s Remarks

As stated in my sworn testimony at the Public Accounts Committee (PAC) Hearings on the Report of the Office of the Auditor General (OAG) on 15 July 2020, while I generally accept the recommendations of the OAG Report on the Efficiency and Effectiveness of OfReg, June 2020, I am nonetheless unable to support Recommendation 4 for reasons provided in my oral testimony to the PAC, as well as outlined in my written statement which was previously provided to the OAG, PAC, and Boardgroup. In addition, the OAG’s Report stated that Mr. J Paul Morgan, former CEO of OfReg (of blessed memory) had not prepared a Succession Plan prior to demitting office, and also implied that the Chair had paid Mr. Morgan an additional



CI\$2,500.00 per month on his salary without authority. Both statements are incorrect. The OAG should be aware, that authority for the action of the Chair is provided under section 32(1) of the URCL (2019 Revision), as well as section 47(6)(d) of the PAL (2020 Revision). These sections specifically provide the Chair and the Ministry with the authority to, as appropriate, adjust a CEO's salary in accordance with market rates; these provisions of the law were therefore complied with in determining Mr. Morgan's salary, as well as his vacation leave entitlement. It should also be noted that the OAG, PAC and OfReg's Boardgroup have been provided with copies of Mr. Morgan's Succession Plan and Exit Strategy. The OAG's misstatements of facts should therefore be corrected at the earliest opportunity.

The foregoing, notwithstanding, let me make it abundantly clear that despite my professional disagreement on the above issues, I personally hold the Auditor General and her staff in very high regards, and trust that my written statement and verbal comments on the OAG Report at the PAC Hearings did not indicate otherwise. However, it would be remiss of me if I did not express my disappointment with the unprofessional "fact check" carried out by the Auditor General on her own Report during the PAC Hearings, which is tantamount to an accountant auditing his/her own work, and providing an unqualified certificate thereon. It should therefore not be surprising to anyone that her "fact check" found her Report to be factually correct, and found my opposite testimony to the PAC to be false. Even if the Chairman of the PAC did not recognize the conflict of interest perpetrated by the "fact check" prepared by the Auditor General on her own work, as an accountant who is professionally bound by International Accounting and Auditing Standards, the Auditor General should have known better. The "fact check" should therefore have been carried out by a duly qualified and independent entity to avoid this obvious conflict of interest.

Despite the difficulties experienced by OfReg in its first three years of operations which commenced in 2017, it is encouraging to note that it produced a surplus of \$135,659.00 in 2018, and an unaudited surplus of \$212,302.00 in 2019. Based on OfReg's strategic direction and its dedicated Board, Management and Staff, it is reasonable to expect that the future of OfReg augurs well.

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. 4, held 18 June 2020 v3
6.2.3 and 6.2.5

Minutes Approved as amended – moved by RE and seconded by PB.

3.2 Matters arising from Minutes



HR Manual is being reviewed by the POCS. COO confirmed that the HR Manual has been implemented in accordance with the board discussion and resolution.

3.3 Round Robin Resolutions
N/A

4. **Chief Executive Officer Report**

The CEO Report was submitted and included in the Board Papers. The CEO read out his report and discussions ensued.

- The CEO informed the Board that the Senior Management Team will meet in the upcoming weeks to have discussions and to chart a course for the future of OfReg, considering the recommendations made by the Office of the Auditor General and concerns raised at the PAC.

- [REDACTED]

- The CEO notified the Board that a preferential bidder has been identified for the website development project. Motion: The Board grants approval for an additional \$10,000 to be added to the budget for PR services based on proposals submitted.
Moved by RE and seconded by PB.

- [REDACTED]



- The CEO informed the Board that staff were still working from home. The CEO requested the Board's feedback and approval of the Office's proposed Return to Work plan. The CEO stated that the Office has been prepared and is ready. The Chair asked for photos of the Office to be sent to members. The CEO will instruct Manager (Administration) to do so. GB queried that since this is an operational matter, why is the Board being asked to approve? The Chair responded that it is good for the Board to be involved.
Motion: The Board grants approval of OfReg's Return to Work plan, which is based on CIG's directives.
Moved by RE and seconded by PE.
- The 2019 Annual Report is presently being reviewed by SMT for re-submission to Fountainhead. The Strategic Plan review and redraft is due to take place in September 2020 so OfReg can meet the November 30 statutory deadline.

4.1 Professional indemnity insurance –The CEO informed the Board a request for legal opinion was made to the AG Chambers as per the Board's request. The Office is still awaiting receipt of the requested opinion.
Sector updates – in CEO's report.

RE queried whether CFI considered outsourcing the fuel inspection functions to the Department of Planning. CFI deferred to the CEO, and said he would need to sit with the CEO to talk about an approach, and provide an update. It was noted however, the Department of Planning relies on OfReg for expert advice and to conduct inspections on fuel related matters.

5. Regulatory Matters

5.1 Energy and Utilities

5.1.1. CUC COVID-19 Cost Recovery and June 2020 Base Rate Adjustment Proposal

The EDEU submitted a Board paper and confirmed that OfReg communicated with CUC regarding the timing of the announcement and rejected CUC's suggestion of having a joint announcement. The Board stated that they would like to see that the Regulator's press release be sufficiently independent of the Licensee's press release.

Motion: Be it resolved that the Board defers approval of the CUC's cost recovery and June 2020 base rate adjustment proposal pending further assessment. The Board directs the EDEU and his team to make further inquiries into issues raised by the Board and review the responses, so that those issues be considered at a special board meeting.

Moved by RE and seconded by PE.



5.2 Fuels

5.2.1. Update on Fuel Price investigation

Addressed as a part of agenda item #4. The CFI and the Fuels Analyst examined prices over the last 12 months. [REDACTED]

[REDACTED]. The team is finalising the report, and will outline determinations and recommend remedies.

5.2.2. MAB Share Transfer Update

Addressed as a part of agenda item #4. The Fuels Team is presently waiting on information from MAB, and will provide an update at the next board meeting.

5.2.3. Consumer Protection Regulations (Fuels Sector)

Dealt with in CEO's report.

5.2.4. Market interventions undertaken to lower fuel prices

Dealt with in CEO's report. Dependent on fuels market assessment.

5.3 ICT

5.3.1. Update on Cabinet Directives

5.3.1.1. Achieving Full Liberalisation of the Cayman Islands Telecommunications Market and Developing a Robust Internet Infrastructure."

By Memo, the CEO requested clarifications on aspects of the Directive and is awaiting responses from the Ministry of CPI.

5.3.1.2. Submarine Cable Landing (update provided by the EDICT)

EDICT was nominated to serve on a special committee per a Cabinet Directive to study funding options for a submarine cable. The committee meets regularly and will seek to provide Cabinet with options via a report to Cabinet in September.

5.3.1.3. C3 Disputes (Update provided by the EDICT)

[REDACTED]

5.3.2. IXP Licence Application

[REDACTED]

Moved by RE and seconded by PB.

5.3.3. 3rd Mobile Licence Application

[REDACTED]

5.3.4. Market Intervention undertaken – Internet Broadband Prices and Quality of Service

(Deferred)



6. Board Matters

6.1 Board Administration

- 6.1.1 OAG Report and PAC's concerns
Special meeting to be called to address this matter.
 - 6.1.1.1 Adoption of Values
 - 6.1.1.2 SOL and Rubis LCCLs
 - 6.1.1.3 External regulatory legal support – [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 6.1.2 Board Action Item Log ('BAIL')
18-06-2020/4 CEO will prepare a board paper
18-06/2020/6.2.1. Not going to recruit as a board member will be temporary chair and proceed with seeking legislation change.
- 6.1.3 Proposed new BAIL format
NED Rudy proposed that the BAIL be recorded in dropbox paper, instead of Microsoft word. The Board agreed.
- 6.1.4 Commission on Standards in Public Life - Annual Declaration Submission
Submissions are due on 30 July 2020. All members are on track to submit by the deadline.
- 6.1.5 Establishment of Reserve Fund(s)
Formally establish separate accounts with nominal amounts, and Finance Committee work with the CEO to formulate terms of reference for each account. Moved by PB and seconded by PE. CARRIED
- 6.1.6 Recommendations and requests to the Board for improvement (may need to defer). Special Meeting.

6.2 Board Committee reports

- 6.2.1 Risk and Audit Committee (RD (Chair), PB and PE) – be dealt with in Special meeting. Minutes tabled at the board meeting.
- 6.2.2 Public Relations Committee (RD (Chair), PB, PE, RE and CEO) – no update.
- 6.2.3 Interim Investigation Committee (GB (Chair), PB, PE and COO) – Board Leak Investigation RFQ

Motion:

WHEREAS, OfReg is presently engaged in a Request for Quotations (RFQ) for IT Systems Interrogation into the unauthorised disclosure of confidential documents from OfReg that appeared on the Cayman Marl Road



website and Cayman News Service website on 7 September 2018 and 11 September 2018 respectively.

WHEREAS, there have been several delays with the RFQ process including delays due to the COVID-19 crisis and a contract is not yet awarded.

WHEREAS, previous steps taken by OfReg included reporting the matter in September 2018 to the Financial Crimes Investigation Unit of the RCIPS and requesting their assistance and in December 2018 arranging a sweep of the office premises of OfReg for electronic surveillance devices by a professional firm qualified to conduct such exercises that revealed no such devices

WHEREAS, the RFQ document issued to bidders provides for cancellation by OfReg without penalty as per section 3.6.4 and as variously noted in section 2.5.4 and other subsections of section 3.6.

WHEREAS, the Board of Directors of OfReg wishes to reconfirm its disapproval of unauthorized disclosure of information, that such actions should bear consequences and affirms strategic policy directives to the CEO and to the office of OfReg to enhance mitigation measures against such occurrences where possible and financially prudent and

WHEREAS, in consideration of the best interests of the mission, objectives and responsibilities of OfReg, be it:

RESOLVED; that with immediate effect, the CEO or other delegated by him inform all the bidders of the RFQ for IT Systems Interrogation that OfReg has taken the decision to cancel the RFQ, and thank them for their time and attention; and, it is

RESOLVED, that with immediate effect the CEO is directed to ensure that the office of OfReg implements a robust Information Security Breach Policy by 30 September 2020,

RESOLVED FURTHER, that with immediate effect the CEO initiates a procurement process to conduct and conclude by mid-Nov 2020 a review and vulnerability assessment of the IT Systems used by OfReg to identify existing gaps and to make actionable recommendations of changes to introduce higher levels of security, functionality, accountability and to provide comfort and confidence to all stakeholders.

Moved by GB and seconded by PB.

6.2.4 Innovation Committee (PB (Chair), PE, RE, EDEU and EDICT)



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- 6.2.5 Remuneration and Human Resource Committee (PE (Chair), RD, RE, PB and EDICT) – no update.
- 6.2.6 Finance Committee (RD (Chair), PB and FC) – no update.

7. Any Other Business

**8. Adjournment: Date of Special meeting - 4 August 2020, 9 am.
Date of next meeting - 27 August 2020, 9 am.**

Motion to adjourn: moved by RE and moved by PB. Meeting adjourned at 2:58pm.

Dr. the Hon. Linford A. Pierson, OBE, JP, PhD, FCCA
Chairman—OfReg
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Reviewed by CAP-23 Nov 2020. No redaction needed under the FOA/DPL law