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MINISTERIAL DIRECTIONS (TRANSFER OF OWNERSHIP OF LICENSEES) UNDER SECTION 8 OF ELECTRICITY Act 2016”

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Section 10 of the Electricity Act 2016 and Section 7(3) of the Regulatory Authority requires the following Ministerial Direction to be published in the Official Gazette:

Transfers of Ownership of Licensees

Pursuant to section 15 of the Electricity Act 2016 (the Act), in discharging functions of the Regulatory Authority (the Authority), including the consideration of any change in ownership of any licensee under the Act or of any proposed Concentration under section 87 of the Regulatory Authority Act 2011 (RAA), the Authority must act in a manner consistent with the purposes of the Act as set out in section 6.

It is important, in considering the purposes set out in section 6 of the Act, that each purpose is given the appropriate priority. As the Minister responsible for Energy, I am permitted under section 8 of the Act to give directions “with due regard to the purposes of this Act.” Additionally, section 9 of the Act allows me, in formulating Ministerial Directions, to set priorities in a way that, in my opinion will best serve the public interest, taking into account Government policy, the purposes of the Act, any public comments and any available technical analysis.

As the Authority is aware, the purposes of the Act include the following, namely, to seek—

1. to ensure the adequacy, safety, sustainability and reliability of electricity supply in Bermuda so that Bermuda continues to be well positioned to compete in the international business and global tourism

markets;

- This is to ensure that a stable energy platform is maintained. Our stable electrical supply and grid have played a part in establishing Bermuda's 'elite' reputation among all other island jurisdictions in the region. Safety is paramount as well, again, setting Bermuda quite apart from others in the region. This piece cannot be under-emphasized in an environment where cost and quality are almost entirely proportional in that where electricity is inexpensive in our region, it is usually also not nearly as reliable and safe as that in Bermuda.

2. to encourage electricity conservation and the efficient use of electricity;

- Energy conservation and efficiency is something that, historically, Bermuda has not done well. Increased efficiency in end-uses would mean that demand could be lower, and if demand is lower, especially at times of peak use, it is likely that fewer new engines need to be brought on line to meet demand. Peaking engines being the most expensive to run- they use costly diesel and they are not as efficient themselves as the slower base load engines- overall energy costs to the customer could also be diminished through using those engines less. Lastly, energy efficiency and conservation is the least expensive way to reduce costs. Much of the incentive to embrace energy efficiency is in the hands of the utility- through innovative rate structures and public outreach and education so that the utility remains whole while helping their customers reduce costs.

3. to promote the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources;

- The obvious rationale here was to be more environmentally responsible. Increasing the uptake of renewables responds to climate change by increasing Bermuda's resiliency, through less reliance on imported fuels. Bermuda's central generation plant lies in a flood plain, and is extremely vulnerable to flooding events, and decentralized generation reduces some of that risk. Furthermore, renewable energy reduces the amount of money spent on foreign commodities such as fuel oil, lubricants, replacement parts and the like. That capital would instead be retained on island, and hopefully circulating in the local economy. Energy independence is good for both the economy and the environment.

4. to provide sectoral participants and end-users with non-discriminatory interconnection to transmission and distribution systems;

- This needs little explanation; it is twofold: this prevents any monopoly on the generating subsector and ensures that other market participants are allowed to interconnect to the grid, and it ensures that end users are not denied service without just cause.

5. to protect the interests of end-users with respect to prices and affordability, and the adequacy, reliability and quality of electricity services;

- I believe this is self-explanatory.

6. to promote economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity.

- Again, economic efficiency in these areas translates to lower costs for customers.

The Government is concerned with ensuring that the above purposes are met and in particular, that where possible section 6(e) which speaks to the purpose of protecting “the interests of end-users with respect to prices and affordability, and the adequacy, reliability and quality of electricity service”, is given the highest priority provided there is no detriment to section 6 (a) which speaks to adequacy, safety, sustainability and reliability of the electricity supply in Bermuda.

Thus, I direct that the Authority in considering transfers of ownership of licensees, transfers of licenses or Concentrations, must consider the purposes in the following order of priority:

1. Section 6 (e) (except that where there is a conflict with (a), (a) is considered first)
2. Section 6 (a)
3. Section 6 (c)
4. Section 6 (d)
5. Section 6 (b)
6. Section 6 (f)

I expect that, while the Authority considers whether to grant its consent to any transfer of ownership as delineated in section 30 of the Act, deliberations consistent with this Direction will provide additional layers of diligence which we have discussed and will better safeguard the interests of the rate payers and further strengthen the application of the Act.

Please note that this Direction in no way obviates any of the other regulatory processes established around the transfer of ownership of any licensee, but rather, adds to the process.

The Hon. Walter H. Roban, JP, MP

Minister of Home Affairs

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