



GOVERNMENT OF BERMUDA

The Ministry of Finance

Ministry of Finance Headquarters

31 March 2021

Mr. Mark Fields
Chairman
Regulatory Authority of Bermuda
1st Floor
Craig Appin House
8 Wesley Street
Hamilton HM 12

Dear Mr. Fields,

Reference: The Regulatory Authority ("RA") 2021/22 Proposed Work Plan and Budget

In accordance with section 43(4)(c) of the Regulatory Authority Act 2011, I have considered the RA's proposed work plan and budget for the next fiscal year, and hereby approve the budget for 2021-22.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'C. Dickinson', written over a faint circular stamp.

The Hon. Curtis L. Dickinson, J.P., M.P.
Minister of Finance



Final Report

Work Plan and Budget

REGULATORY AUTHORITY

WORK PLAN

2021-22 FISCAL YEAR

Matter: 20200930

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1. EXECUTIVE SUMMARY

1.1 Introduction

The purpose of this proposed 2021-22 Work Plan is to comply with Section 43(2) of the Regulatory Authority Act 2011 (“RAA”), which requires the Regulatory Authority of Bermuda (the “RA”) to conduct a public consultation regarding its Work Plan for the upcoming financial year. This proposed Work Plan will cover the period of 1, April 2021 through 31, March 2022, and includes a corresponding proposed budget. All figures within this document are denominated in Bermuda Dollars.

The projected year-on-year increase in revenues for the fiscal year 2021-22 is 8%. The increase is mainly attributed to the planned activities within the electricity sector as highlighted below:

In the electricity sector, the primary activities will be to evolve the critical next steps for the island’s Integrated Resource Plan (“IRP”) and the drive towards **85% renewable energy by 2035**, primarily with a focus on wind pre-feasibility, solar procurement and a multi-year tariff setting effort. The **wind study** was delayed in the prior fiscal year due to inadequate financing. **This project must be launched if the renewable targets of the IRP are to be achieved. This is aligned with the Government goal of significantly reducing Bermuda’s reliance on fossil fuels.** Additional details regarding the projects for both sectors are highlighted further in this document.

In contrast, in the electronic communications sector, as the majority of the regulatory frameworks are now complete, the RA will monitor the sector and its providers to ensure they are compliant with the prescribed regulations, and if necessary, impose enforcement for non-compliance.

With the enactment of the Submarine Communications Cables Act 2020, the RA will regulate the international submarine communications cable permitting and licensing processes.

Further, the RA will commence the development of the regulatory framework, including public consultations as necessary, for the fuels sector pursuant to legislative approval.

The RA received three responses to the consultation on the proposed Work Plan from the Bermuda Electric Light Company Limited (“BELCO”), One Communications Limited (“OneComm”) and TeleCommunications (Bermuda & West Indies) Ltd. and Bermuda Telephone Company Ltd. (collectively “Digicel”). The RA has reviewed and considered the comments received and provided responses. These are summarised in Appendix F.

The RA received three responses to the Preliminary Report on the proposed Work Plan from the Bermuda Electric Light Company Limited (“BELCO”), One Communications Limited (“OneComm”) and TeleCommunications (Bermuda & West Indies) Ltd. and Bermuda Telephone Company Ltd. (collectively “Digicel”). The RA has reviewed and considered the comments received and provided responses. These are summarised in Appendix G.

The RA also received feedback from the Ministry of Home Affairs supporting the multi-year tariff review and the comprehensive wind studies for electrical power generation. Which have been subsequently added to this Final Report.

Based on the preceding information, the RA proposes that the Minister of Home Affairs set the Regulatory Authority fees as follows:

- a) The Electronic Communications Regulatory Authority fee, relating to Integrated Communications Operating Licences (“ICOLs”), **to be reduced to 1.70%**.
- b) The general regulatory fees under paragraph 1 of the Schedule to the Electricity (Regulatory Authority Fees) Regulations 2018, payable by the Transmission, Distribution and Retail (“TD&R”) Service Provider **to increase to \$0.00635** per kilowatt-hour; and
- c) The general regulatory fees under paragraphs 2 to 6 of the Schedule to the Electricity (Regulatory Authority Fees) Regulations 2018, payable by the Bulk Electricity Generation Providers is to remain as follows:
 - i. Utility-Scale Electricity Generation provider (greater than 25 MegaWatts of installed electricity generation capacity) - **to remain** at \$1,000 per MegaWatt;
 - ii. Fossil Fuel Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) - **to remain** at \$1,500 per MegaWatt;
 - iii. Waste-to-Energy Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) and – **to remain** at \$1,500 per MegaWatt;
 - iv. Renewable Energy Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) – **to remain** at \$1,500 per MegaWatt;
 - v. Self-Supply Generation License provider (greater than 0.5 MegaWatts of installed electricity generation capacity) – **to be set** at \$6,500 per MegaWatt.
- d) The Electronic Communications Regulatory Authority fee, relating to Submarine Communications Operating Licences (“SubCOLs”), was recently set at 1 % and no further changes are proposed at this time.

In addition, the RA proposes that the Minister of Home Affairs makes a regulation to establish the recommended service fees in accordance with Section 10 of this preliminary report.

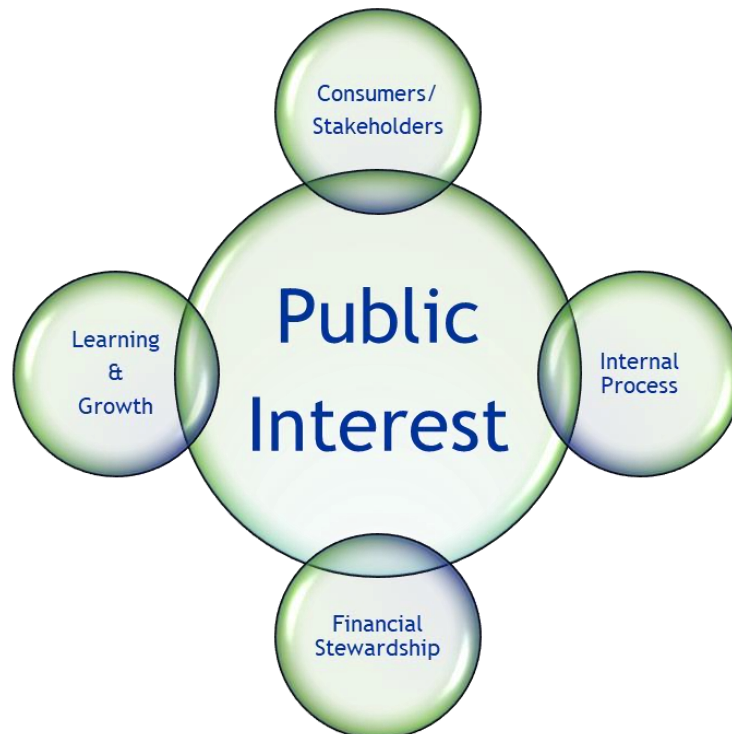
As an independent regulator, the RA is funded from sectoral fees. Therefore, it is important that the relevant fees are set at the necessary levels that will allow the RA to meet its planned expenditures. Further, the RA has attempted to set fees according to the cost-drivers of such fees.

Based on the rationale stated above, the RA also proposes to recommend to the Minister of Home Affairs that there should be **no increase** in the current level of Government Authorization Fees imposed on the Electronic Communications and Electricity sectors under the Government Fees Act 1965. Further, the RA proposes **a reduction** in consultation activities and consequential costs to limit increases in RA costs.

The RA proposes to submit the Final Report in support of its request that the Minister of Finance approve the RA's proposed budget of \$6,806,000 for total revenues (an increase of 8%) and of total expenditure of \$6,800,700 (an increase of 7%) for the fiscal year 2021-22. It proposes to request that the Minister of Home Affairs make a regulation to establish that the Regulatory Authority Fees payable by ICOL holders, SubCOL holders and electricity sectoral participants, are to fund the proposed budget.

1.2 Strategic Objectives

The RA's Vision, Mission and Values ensure the public interest is the core focus of the regulated sectors.



The RA will strive to achieve these objectives through a balanced focus on its four top priorities:

- **1- Consumer/Stakeholder** focus will ensure that the RA works to bring value to the community and its stakeholders;
- **2- Internal Process** focus will ensure that the RA consistently delivers and pursues continual improvement;
- **3- Innovation, Learning and Growth** focus will ensure that the RA develops the internal capacity to execute its mandate, and
- **4- Financial/Stewardship** focus will ensure that the RA is operating with the financial wherewithal that is appropriate for a not-for-profit corporate entity.

The RA will continue building capabilities to operate across multiple regulated sectors with the long-term goal of a gradual reduction in the reliance on external advisors and consultants.

1.3 Fiscal Year 2020-2021 Major Activities:

Examples of some of the key activities undertaken by the RA in the fiscal year 2020-2021, in both the electronic communications and electricity sectors include the following:

Electricity Sector:

- **BELCO Change of Control** – to evaluate and approve the change in ownership of Bermuda’s sole electricity provider.
- A **Retail Tariff Review** - designed to identify the costs of electricity generation, transmission, distribution and retailing services by BELCO which will be set in the new consumer electricity rates.
- **Sectoral Review** –Review of the legislation, regulations, licensing and performance of all aspects of the electricity sector;
- **Service Performance Standards**- to identify standards for the reliability, power quality and customer service and set targets for the utility to meet;
- **Grid Code** - Reviewed and approved a new code to govern the technical aspects relating to connections to, and the operation and use of the utility’s electricity transmission system to ensure safe, secure and economic functioning of the electricity system; and
- **Emergency Protection for the Public** – Due to the projected economic impact of COVID-19, the RA issued an Emergency General Determination prohibiting the disconnection of consumers and small businesses for six months during the pandemic.
- **Consumer Protection General Determination** – provided additional rights for consumers and small businesses in the electricity sector.
- **Saturn Solar licensing** – Licensed the first Bulk Generation Renewable Energy Provider in Bermuda.
- **Bulk Generation Procurement Rules** – Issued the formal procurement rules for adding new Bulk Generation Capacity to the Electricity System
- **Bulk Solar Feasibility and Procurement** – Commenced the feasibility study and subsequent acquisition for further Solar Bulk Generation Renewable Energy.

Electronic Communications Sector:

- **A new licensing regime** to promote competition - the RA developed a new form of Communications Operating Licence, known as the Submarine Communications Operating Licence. The RA accepted and awarded applications for two ICOLs and one SubCOL.
- **Market Review** of the sector to determine whether significant market power exists and propose remedies to promote competition in the interest of Bermuda's consumers and residents.
- **Significant Market Power Remedy Implementation** – following the Market Review, the RA instituted **new rules to enable fair, reasonable and non-discriminatory access to the wholesale networks of the dominant carriers.**
- **Spectrum Assignment** – a process for the licensing, permitting and exemption of spectrum assignment was developed and implemented.
- **Radiofrequency & 5G Safety** – at the time of writing this document, the RA is conducting a public consultation on Radiofrequency and 5G Safety and is in the final stages of the RF Study per the 2020-2021 Work Plan.
- **Emergency Protection for the Public** – Due to the projected economic impact of COVID-19, the RA issued an Emergency General Determination prohibiting the disconnection of consumers and small businesses for six months during the pandemic.
- **Temporary Moratorium on 5G** – As a result of the concerns expressed by members of the public, the RA issued an Emergency General Determination prohibiting the deployment of 5G equipment or services until a final determination is made by the RA at the conclusion of the RF Study in the **interest of public safety.**
- **Consumer Protection General Determination** – provided additional rights for consumers and small businesses in the electronic communications sector.

Submarine Communications Cables Sector:

- **A new licensing regime** to facilitate the development of new Submarine Communication Cable Networks to and from Bermuda, supporting a **Government Initiative.**

2. STRUCTURE OF WORK PLAN DOCUMENT

Building on the accomplishments of the previous fiscal year, this Report sets out the RA's Work Plan for the period April 1, 2021 to March 31, 2022. It includes the RA's current mandate, strategic goals and the major activities that it anticipates undertaking. The Work Plan also details the Proposed Budget and Projected Revenues which support these planned activities.

Further, the proposed Work Plan reflects the RA's assessment of the ongoing and projected trends in the regulated sectors that the RA regulates, namely:

- Electronic Communications, including radio communications and radio spectrum management;
- Electricity, including electricity generation, transmission, distribution and retail;
- Submarine Communications Cables, including installation permits and operational licences;
and
- Consumer Protection relating to all regulated sectors.

The proposed Work Plan does not include any specific work that may be required in any other sectors which may become regulated in the future or ad hoc additions.

3. PROPOSED BUDGETS AND FEES

As mentioned, the revenue budget is focused on aligning the fees with the costs drivers in the relevant sectors when practical. As such, the RA proposes the following.:

3.1 Funding

The RA's costs are to be funded through the payment of the RA fees which consist of general regulatory fees and service fees. General regulatory fees are paid by holders of ICOLs, SubCOLs, Electricity Transmission, Distribution and Retail ("TD&R") and Bulk Generation Licences. Service fees are paid by sectoral participants for specific functions performed by the RA, on a per service basis. As defined in the RAA (section 44), sectoral participants include a person or entity that provides, uses or seeks to use goods or services in a regulated industry sector.

The RA proposes to adopt, subject to the approval of the Minister of Home Affairs and the Minister of Finance, a total expenditure budget of \$6,800,700 which consists of an operating expenditure of \$6,732,700 and a capital expenditure of \$68,000.

3.2 Electronic Communications

- The RA proposes a decrease to the expenditure budget for the Electronic Communications sector for the fiscal year 2021-22. Specifically, an expenditure budget of \$3,274,700 is proposed, which is a decrease of \$134,650 (4%), when compared to the 2020-21 approved budget. The RA recommends that the **Electronic Communications Regulatory Authority Fee for ICOL holders** is reduced to 1.70%, which will be applied to the ICOL's Relevant Turnover and that the recently implemented **Electronic Communications Regulatory Authority Fee for SubCOL holders remain** at 1%, which will be applied to the SubCOL's Relevant Turnover.

3.3 Electricity

- The RA proposes revenue of \$3,471,000 which is above the approved budget for the fiscal year 2020-21 by \$670,000 (23%). The following are the fees used to support the Electricity expenditure budget for 2021-22:
 - i. Electricity TD&R service provider – **a proposed increase to \$0.00635** per kilowatt-hour sold;
 - ii. Utility-Scale Electricity Generation provider (greater than 25 MegaWatts of installed electricity generation capacity) - **no proposed increase;**
 - iii. Fossil Fuel Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) - **no proposed increase;**
 - iv. Waste-to-Energy Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) – **no proposed increase;**
 - v. Renewable Energy Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) – **no proposed increase; and**
 - vi. Self-supply Generation License provider (greater than 0.5 MegaWatts of installed electricity generation capacity) **to be set** at \$6,500 per MegaWatt.

3.4 Proposals to the Minister of Home Affairs:

As a result of the preceding information, the RA proposes to recommend the following to the Minister of Home Affairs:

That there should be **no change in the Electronic Communications RA fee**, relating to the general regulatory fees.

That there should be **an increase in the general regulatory fees** under paragraph 1 of the schedule per the Electricity (Regulatory Authority Fees) Regulations 2018, payable by the TD&R Service Provider.

That there should be **no increase**, in accordance with section 7.2 of this document in the general regulatory fees under paragraphs 2 to 5 of the schedule to the Electricity (Regulatory Authority Fees) Regulations 2018, **payable by the Bulk Electricity Generation Providers**.

That the service fees should be set per section 8.

That there should be **no increase in the current level of Government Authorization fees payable by the Electronic Communications and Electricity** sectors under the regulations.

4. LEGISLATIVE CONTEXT

The RA is an independent regulator established under the RAA. In accordance with section 12 of the RAA, the principal functions of the RA are as follows:

- i. to promote and preserve competition;
- ii. to promote the interests of the residents and consumers of Bermuda;
- iii. to promote the development of the Bermudian economy, Bermudian employment and Bermudian ownership;
- iv. to promote innovation; and
- v. to fulfil any additional functions specified by sectoral legislation.

To date, the RA has been mandated to regulate the Electronic Communications, Electricity and Submarine Communications Cables sectors. The work associated with the SCCA is expected to be fully funded by applicant fees, which have been set by the Government of Bermuda.

In accordance with section 5 of the ECA, the purposes of the ECA are:

- i. to ensure that the people of Bermuda are provided with reliable and affordable access to quality electronic communications services;
- ii. to enhance Bermuda's competitiveness in the area of electronic communications so that Bermuda is well-positioned to compete in the international business and global tourism markets;
- iii. to encourage the development of an electronic communications sector that is responsive to the requirements of users (both individuals and businesses) and provides them with choice, innovation, efficiency and affordability;

- iv. to encourage the development and rapid migration of innovative electronic communications technologies to Bermuda;
- v. to promote the orderly development of Bermuda's electronic communications sector;
- vi. to encourage sustainable competition and create an invigorated electronic communications sector that will lay the groundwork for the further development of communications-reliant industries;
- vii. to encourage the development and maintenance of resilient and fault-tolerant communications infrastructures;
- viii. to promote investment in the Electronic Communications sector and in communications-reliant industries, thereby stimulating the economy and employment; and
- ix. to promote Bermudian ownership and Bermudian employment at all levels of the Electronic Communications sector.

In accordance with section 6 of the Electricity Act 2016 (the "EA"), the purposes of the EA include the following:

- i. 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;
- ii. to encourage electricity conservation and the efficient use of electricity;
- iii. to promote the use of cleaner energy sources and technologies, including alternative energy sources and renewable energy sources;
- iv. to provide sectoral participants and end-users with non-discriminatory interconnection to transmission and distribution systems;
- v. to protect the interests of end-users with respect to prices and affordability, and the adequacy, reliability and quality of electricity service; and
- vi. to promote economic efficiency and sustainability in the generation, transmission, distribution and sale of electricity.

In accordance with section 6 of the SCCA, the purposes of the SCCA include the following:

- i. promote investment in the submarine communications cables sector and in communications-reliant industries, thereby stimulating the economy and employment;
- ii. enhance the protection of submarine cables in Bermuda waters;
- iii. enhance Bermuda's international submarine communications cables connectivity;
- iv. lay the groundwork for the further development of the submarine communications cables sector, and promote its orderly development; and
- v. encourage the development and maintenance of resilient and fault-tolerant submarine communications cables infrastructure.

5. BASIS, ROLES AND RESPONSIBILITIES OF THE RA

5.1 Statutory basis of the RA and funding

As an independent body, it is important to note that the RA receives no Government funding. It is funded by the collection of RA Fees, which currently include the following:

- i. fees charged to ICOL holders;
- ii. fees charged to SubCOL holders;
- iii. fees charged to the TD&R licensee, which are recoverable from the consumers of electricity; and
- iv. fees levied on those entities that operate in the Electricity sector as electricity generation providers, which includes BELCO and Tynes Bay Waste to Energy Facility.

The legislative basis of the RA specifies its responsibilities as, amongst others, to promote sustainable competition, incentivise innovation and investment, and ensure the interests of consumers are met. In pursuing this mandate, the RA discharges these responsibilities through (i) economic regulation; (ii) technical regulation; (iii) necessary consultation and legal decisions; and (iv) enforcement.

5.2 The role of the Board of Commissioners of the RA

Pursuant to the RAA, the Board of Commissioners (“BOC”) is responsible for deciding and issuing various regulatory decisions consistent with its duties under the ECA and EA. The BOC is also responsible for the governance of the RA and directs the Chief Executive and staff of the RA. There are currently five (5) Commissioners.

5.3 Building capacity, regulatory partnerships and stewardship.

The RA’s staffing strategy is focused on building and hiring a qualified team of legal, financial, technical and operational staff. Developing the staff by knowledge transfer from the experience of senior staff members, engagement of external advisors and targeted training is a proven strategy. For example, Bermuda’s first Integrated Resource Plan (“IRP”) was developed ahead of schedule with the input of external advisors. In the future, Feed-in-Tariff reviews will primarily be conducted with internal resources. The development of Bermudian staff also provides a knowledgeable pool for future leadership and management opportunities.

The RA serves the public interest and protects consumers by enhancing the integrity of the regulated sectors and promoting effective competition, which in turn ensures that consumers have access to the products and services they need and are able to build a healthy rapport with their provider. Collaboration with regulators in other jurisdictions to share experiences and best practices also assists the RA in the delivery of proven regulatory services for consumers.

5.4 Addressing new areas of regulation for the RA.

As a multi-sector regulator, the RA has had to develop operational efficiencies through the use of common back-office systems and procedures to effectively support the administrative requirements for its existing sectors. The RA recognizes that with these improved efficiencies, the timeline to integrate new regulated sectors will be vastly reduced, and thereby allow the RA to devote more time to the development of any technical expertise that may be required. For example, in 2020, the Submarine Communications Cables Act 2020 was passed. This Act

introduced ocean protective zones and a new permitting and licensing framework for international subsea communications cables. The new framework allows for both domestically terminated and international transit systems. Further, the RA anticipates commencing the regulation of the Fuel sector subject to legislative approval.

6. OPERATIONAL FUNCTIONS

6.1 Fee collection

During the fiscal year 2021-22, the RA anticipates collecting Government revenues of approximately \$16,933,000 and \$178,301 from the Electronic Communications and Electricity sectors, respectively. This has been derived based on the estimated impact of COVID-19 in the fiscal year 2020-21 and has been adjusted for the projected GDP growth of 4.5% in the fiscal year 2021-2022, as per the World Economic Outlook for June 2020.

<https://www.imf.org/en/Publications/WEO/Issues/2020/06/24/WEUpdateJune2020>

6.2 Budget

The RA has set its proposed expenditure budget for 2021-22 at \$6,800,700. This is on the basis that the RA plans to undertake Electricity, Electronic Communications and Submarine Communications Cable related projects and operational activities.

6.3 Revolving Line of Credit

The RA secured a Revolving Line of Credit (“RLOC”) to assist with cash flow management which is in place for an initial period of 2 years expiring September 30, 2021. The RA intends to roll forward this line of credit for at least another 2 years after expiry.

6.4 Staff

As the regulatory activities that the RA pursues are specialised and complex, it is important that the RA builds and maintains an appropriate resource and staff base, which includes a focus on ongoing development, in-house training and succession planning. Based on the recently demonstrated need to provide subject educational information, the RA will increase the creation of original education content to help the public understand various items including radiofrequency and modern communications in the Electronic communications sector and renewable energy, traditional resources and energy efficiency and conservation in the electricity sector.

7.5 Communications

Communication in a post-COVID-19 world has dramatically changed. With increased levels of online engagement, connectivity, activism and a higher valuation on transparency, in fiscal 2021-22 and beyond, the RA’s communication initiatives will focus on increasing stakeholder engagement by delivering an enhanced digital experience. Specifically, the communications initiatives will include:

- i. Digital Data Analytics: to better understand and enhance the consumer online experience;
- and

- ii. **A Consumer-Focused Website:** The RA's website will be re-organized and re-tooled to become more consumer-centric and provide content that is responsive, relatable, and easily understandable.

6.6 Regulatory Regime

As the Government of Bermuda continues to consider further amendments for the RA, which may add sectors to its responsibilities, the RA must remain focused on streamlining the efficiency and effectiveness of its current operations.

The RA continues to develop its cross-sectional teams on the basis that its regulation of sectors involves a high degree of economic, financial, technical and legal analysis, which requires sound knowledge and subject matter expertise in each sub-field of the regulatory environment.

In the fiscal year 2021-22, the RA will focus on various work streams and projects that support its ongoing operational functions.

Further details on the RA's proposed Work Streams are set forth below.

6.7 Electricity

The 2021-22 work streams are primarily process-oriented, with a high degree of focus on the development of the next steps in the IRP. The projects include:

i. Solar Procurement

The RA will facilitate the initial Request for Proposal/Quotation process for the procurement of solar PV to be commissioned in 2023. The solicitation of Solar Procurement will follow the rules set by the recently completed Bulk Generation Procurement Rules. This work stream will include the review and assessment of applications to determine a lead bidder(s) for predesignated sites and will allow developers to propose alternatives.

ii. Retail Tariff Review

The RA will conduct a further retail tariff review according to the Retail Tariff Methodology¹ The review will span multiple years and explore future tariff design and options for new tariffs. These options may include tariffs for electric vehicle charging, low-income households and new business development. This review will also include a review of utility capital investment plans, review and monitoring of capital construction projects, a review of the regulated utility asset registry and an efficiency and performance benchmarking study in addition to the assessment all costs associated with the production and distribution of electricity. The review will also analyse information such as the Bulk Generator Licensees cost to generate electricity and the TD&R Licensee's cost to transmit and distribute electricity, including operation and maintenance, reasonable overhead expenses, administration and other costs.

¹ <https://rab.bm/documents/retail-tariff-final-report-decision-order/>

iii. **IRP Proposal Preparation**

The RA will initiate the first steps in the development of a new IRP by issuing IRP guidance after requesting public comment on the draft guidance. Then the RA will request an IRP proposal from the TD & R Licensee which complies the guidance. This new IRP will update and inform Bermuda's first IRP, which provided a roadmap to meet forecasted energy demand using both supply and demand-side resources to provide cost-effective, reliable service to customers. The new IRP will update the current electricity roadmap with the best available information.

This process also includes a public consultation of the IRP Proposal and request an additional consultation of alternative proposals.

Upon completion of the RA's analysis of the IRP Proposal, alternative proposals, comments, and evidence received from both consultations, the final IRP will set Bermuda's future electricity needs, which will include development opportunities for the now competitive bulk generation market.

iv. **Wind Pre-Feasibility Study**

The RA will commission a pre-feasibility wind study to determine the level of offshore wind resource available together with the business case and the environmental impacts to Bermuda. The study will allow potential investors to make informed decisions about the development of an offshore wind farm. The study will include wind resource testing, resiliency, as well as an environmental and social impact assessment for constructing and operating an offshore wind farm. The maximum optimal capacity for wind will also be determined from the study and will span multiple annual work plans. This project is considered an extraordinary project that will serve to meet a critical need of the Integrated Resource Plan.

6.8 Electronic Communications

In the fiscal year 2021-22, the RA will be focused on monitoring the electronic communications sector and on enforcing the regulations that have recently been put in place, such as:

i. **Significant Market Power ("SMP") Remedy Implementation**

Following the setting of SMP Remedies via general determination in the fiscal year 2020-21, the RA will ensure that the remedies are effectively implemented. The RA will work with the sectoral providers, who are obligated to comply with the SMP remedy obligations, to ensure a smooth transition. This will require periodic assessment of the remedies imposed.

ii. **Annual Market Analysis**

As part of the RA's ongoing efforts to monitor the sector, the RA will conduct an annual market analysis and publish market data from the sectoral providers. This analysis will be published in a report format to provide the public with further insight into the sector.

iii. **Annual Integrated Communication Operating Licensing**

To encourage competition, the RA will conduct its annual ICOL licensing process should there be a need for additional participants in the Electronic Communications sector.

iv. **Spectrum Assignment Licensing**

The RA will also conduct its ongoing spectrum assignment licensing processes to any applications submitted to the RA for consideration. There is strong demand in this aspect of the electronic

communications sector and the RA will be increase its capacity to address this. The RA expects a very dynamic electronic communications sector going forward.

v. **Radiofrequency monitoring network**

Pursuant to the outcome of the RA's related public consultation, the RA may deploy a publicly accessible Radiofrequency (RF) island-wide monitoring network to provide real-time RF field strength measurements. The monitoring network will help to ensure safe levels of RF field strength. Alternatively, the RA may conduct manual measurements periodically to assess the RF field strength.

6.9 Submarine Communications Cables

With the addition of the Submarine Communications Cables Act 2020, the RA will manage the permitting and licensing processes for any applications to install new submarine communications cables. This sector has a low volume of regulatory activity and will be financed through application fees.

7. PROPOSED BUDGET AND PROJECTED REVENUES

This section sets out the RA's proposed expenditure budget, proposed Regulatory Authority Fees and the projected revenue for the fiscal year 2021-22.

7.1 Proposed Expenditure Budget for 2021-22

Subject to the approval of the Minister of Finance, the RA proposes to adopt a total expenditure budget of \$6,800,700 for the fiscal year 2021-22.

The proposed total expenditure budget consists of the planned costs for regulating both the Electronic Communications and Electricity sectors.

As previously mentioned, the RA's Board is composed of five (5) Commissioners. The RA has eighteen staff members currently and is recruiting to fill several key vacancies.

The RA has a range of responsibilities including the collection of Government and Regulatory Authority Fees, which include fees from licensing radios, international and local vessels and aircraft, which is vital to the movement of vessels and aircraft traversing through Bermuda's airspace and waters. The RA's responsibilities also include strategic analysis, project delivery, ensuring regulatory compliance and enforcement and attention to matters concerning consumers. The organisation also manages the assignment of radio spectrum to minimise the potential for harmful interference to users of electronic communications services.

General expenses are split equally between the Electronic Communications and Electricity sectors. Certain staff members who work solely in one sector have the totality of their payroll and benefits allocated to that sector. The projected expenses for 2021-22 are set out in Table 1 below.

TABLE 1

	Electronic Comm	Electricity	Total Operations	Extra ordinary items (Note 2)	Total 2021-22	Total 2020-21
RA Fees ²	3,275,000	3,471,000	6,746,000		6,746,000	6,321,000
Service fees	-	60,000³	60,000	-	60,000	-
Total Revenue	3,275,000	3,531,000	6,806,000	-	6,806,000	6,321,000
Expenses						
Employees	1,690,000	1,745,000	3,435,000	-	3,435,000	3,346,000
Commissioners	198,000	198,000	396,000	-	396,000	540,000
Office Space	186,750	186,750	373,500	-	373,500	373,500
Office Services	133,750	133,750	267,500	-	267,500	260,000
Consulting Services	435,000	190,500	625,500	994,500 ⁴	1,620,000	1,098,600
Operating Costs	571,700	69,000	640,700	-	640,700	720,000
TOTAL OPERATING EXPENSES	3,215,200	2,523,000	5,738,200	994,500	6,732,700	6,338,100
Furniture & Fittings	2,500	2,500	5,000	-	5,000	10,000
Office Equipment	2,500	2,500	5,000	-	5,000	10,000
Computers & Software	2,500	2,500	5,000	-	5,000	10,000
Electronic Communications Equipment	51,000	-	51,000	-	51,000	5,000
Leasehold Improvements	1,000	1,000	2,000	-	2,000	8,000
TOTAL CAPITAL EXPENDITURE	59,500	8,500	68,000	-	68,000	43,000
TOTAL EXPENDITURE	3,274,700	2,531,500	5,806,200	994,500	6,800,700	6,381,100

Please refer to Appendix B for a detailed breakdown of the Electronic Communications and Electricity expenditure budgets for the fiscal year 2021-22, including prior year comparison.

² This may vary depending on the recovery from the unusual economic circumstances of 2020.

³ This relates to the projected service fees from the Bulk Generation Solar procurement applications during the fiscal year 2021-22.

⁴ This relates to the multi-year Retail Tariff Review and the Wind Pre-feasibility studies which are deemed exceptional projects. The wind studies are projected to span two years and have a total value of ~\$1.3 M of which \$500k are in this initial year.

7.2 Proposed Fees and Projected Revenue

i. Electronic Communications services sector

The RA has implemented measures to ensure that costs are prudently managed at all times across the various cost centers. As previously mentioned, the RA recommends that the Electronic Communications Regulatory Authority Fee for ICOLs is reduced to 1.70%, which will be applied to the ICOL's Relevant Turnover and that the implemented Electronic Communications Regulatory Authority Fee for SubCOLs remain at 1%, which will be applied to the SubCOL's Relevant Turnover. This will generate estimated revenues of approximately \$3,275,000 for the RA, based on the anticipated annual relevant turnover for 2021-22, and taking into account the projected impact of the Covid-19 Pandemic and the GDP growth outlook for FY 2021-22.

The RA believes the Work Plan for the fiscal year 2021-22 will decrease in cost for the electronic communications sector, largely due to the completion of the build out of the majority of the regulatory frameworks, a focus on core operations and the transition to a high focus on compliance and enforcement.

The RA also recommends to the Minister of Home Affairs that there should be no increase in the current level of Government Authorization Fees of 3.50% imposed on the Electronic Communications industry under the regulations. Therefore, the projected revenues for 2021-22 are set out in Table 2 below.

TABLE 2

	Regulatory Authority	Government
Electronic Communications	3,275,000	6,750,000
Spectrum Fees	-	2,441,000
Radio Communications Licences	-	442,000
Handset Fees	-	7,300,000
TOTAL	3,275,000	16,993,000

ii. Electricity sector

With regard to 3.3 above, the RA notes the following:

The fees imposed on the TD&R service provider (i) represents the majority of the Electricity Regulatory Authority Fees. The RA's estimated TD&R revenues for the fiscal year 2021-22 are based on the estimated total kWh sales during the fiscal year taking into account the projected impact of the COVID 19-Pandemic and the GDP growth outlook for FY 2021-22. The RA notes that the TD&R service provider may recover the fees payable as set out under paragraph (3) of the Schedule to the Electricity (Regulatory Authority Fees) Regulations 2018 by a dedicated charge to the end-user.

The RA recommends to the Minister of Home Affairs that there should be no change in the general regulatory fees under paragraph 1 of the Schedule to the Electricity (Regulatory Authority Fees) Regulations 2018 for TD&R Service Provider.

With regard to points (ii to v), the RA notes the following:

The RA's estimated Bulk Electricity revenues for the fiscal year 2021-22 are based on the estimated planned installed power capacity during the fiscal year. The RA recommends to the Minister of Home Affairs that there should be no change in the general regulatory fees under paragraphs 2 to 5 of the schedule to the Electricity (Regulatory Authority Fees) Regulations 2018 as shown in sections ii (ii-v) above, payable by the Bulk Electricity Generation Providers.

With regard to (vi), the RA notes the following:

The RA proposes to recommend a new Self-supply Generation Licence fee, payable by licence holders. The fee will be based on the installed MW capacity.

The RA also recommends to the Minister of Home Affairs that there should be no change in the current Government fees imposed on the electricity sector under the Government Fees Act 1965. The projected revenues for 2021-22 are set out below in Table 3.

TABLE 3

	Regulatory Authority	Government
Transmission, Distribution & Retail	3,301,900	104,000
Utility Scale Bulk Electricity Generation	143,300	69,501
Waste-to-Energy Bulk Electricity Generation	16,800	-
Renewable Energy Bulk Electricity Generation	9,000	4,800
Self-supply Generation License	-	-
TOTAL	3,471,000	178,301

7.3 Description of Budget Categories

i. Operational Expenses

The following categories consist of recurring costs that the RA is expected to incur each year (although the amount budgeted in any category is likely to vary from year-to-year):

- **Staff:** This category includes the salaries and benefits for the staff
- **Commissioners:** This category includes the honoraria⁵ paid to the RA Commissioners.
- **Office Space:** This category includes the rent, service charge, taxes, utilities, and insurance associated with leasing a 7,762-square foot office⁶ on the 1st Floor, Craig Appin House, 8 Wesley Street, Hamilton. Also included are the associated internet, mobile communications, repairs and maintenance, security and telephone expenses.
- **Office Services:** This category includes bank charges, cleaning, copier maintenance, financial audit, general office supplies, IT service support, kitchen supplies, postage and delivery and stationery expenses.

⁵ Under active review with the Board of Commissioners.

⁶ The RA expanded its office space in 2019-2020 to accommodate the staffing requirements.

- **Operating Costs:** This category includes the following sub-categories:
 - **Training:** This sub-category includes the cost of essential training and workshops for the RA Commissioners and members of staff to attend industry specific training to gain insight into global best practices.
 - **Consulting and Support Services:** This sub-category includes the costs associated with the legal, regulatory, and technical support that the RA will require in connection with the activities to be carried out in its 2021-22 Work Plan.
 - **Meetings and Conferences:** This sub-category includes costs that the RA will incur to conduct, attend and/or participate in meetings and conferences to remain informed of global best practices, map out infrastructure needs with industry experts, other regulators and foster new relationships.
 - **Subscriptions:** This sub-category includes the cost of books, periodicals, and subscriptions that RA staff will require to remain abreast of industry events and trends.
 - **Communication and Stakeholder Management:** This sub-category includes publicizing general, consumer related consultations, costs to maintain the RA's website, education and awareness campaigns, marketing and advertising, placement of notices in local publications and media related initiatives in relation to regulatory matters.
 - **Provision for Litigation & Enforcement:** This sub-category makes provision for costs related to adverse proceedings, including litigation, in which the RA is involved. It also provides for costs of enforcement proceedings conducted by the RA.
 - **Finance Costs:** This sub-category includes finance costs in relation to bank lending facilities or active lines of credit.

ii. **Capital Expenditures**

The following categories consist of one-time expenses of \$1,000 or more which are required to enable the RA to facilitate its operations:

- **Furniture and Fittings:** This category includes the capitalized cost of furniture and fittings for the RA's offices.
- **Office Equipment:** This category includes the capitalized cost of office equipment, such as copier and miscellaneous office equipment.
- **Computers and Software:** This category includes the capitalized cost of the internal computer network, computers and software for the RA's offices.
- **Electronic Communications Equipment:** This category includes the capitalized cost of new specialized radio spectrum equipment.
- **Property Plant and Equipment:** This category includes the capitalized cost of property, plant and equipment.

8. SERVICE FEES

Section 44(2) of the RAA provides that the Regulatory Authority Fees recommended by the RA shall be consistent with the RA's budget and shall include service fees which shall be payable by

a sectoral participant in connection with specific functions performed by the RA. Section 44(3) of the RAA states that the service fees recommended by the RA shall be designed to recover from a sectoral participant a reasonable estimate of the cost to the RA of performing the function for which the fee is assessed. The RA recommends the service fees, as set out below in Table 4, to the Minister of Finance for the various applications and service fees under section 44 of the RAA.

TABLE 4

Electricity	
Administration Fees	Proposed Fee
- Concentration Review	\$25,000
- Licence Transfer	\$25,000
- Bulk Generation Proposal Review ⁷	\$10,000
- Large-Scale Self-Supply Licence	\$15,000

- Electronic Communications	
Administration Fees	Proposed Fee
- Application for ICOL	\$85,000
- Application for HDS Spectrum	\$15,000
- Application for Non-HDS Spectrum	-
- Application for Licence Exemption	\$320
- Concentration Review	\$25,000
- Change of Control	\$2,400
- Inspection Fees	
- Network interference investigation	\$1,500
- Radio Frequency Hazard Analysis	\$500

⁷ This applies to both competitive tenders and unsolicited proposals.

APPENDIX A – BUDGET BREAKDOWN BY SECTOR

i. Electronic Communications

To provide a prior year comparison for the electronic communications sector, the RA's proposed Electronic Communications expenditure budget for fiscal year 2021-22 is set out below in Table 5. The RA's proposed Electronic Communications total expenditure budget for fiscal year 2021-22 decreased by \$134,650 (4%) when compared to its approved expenditure budget for the fiscal year 2020-21. Common costs have been allocated evenly between the Electronic Communications and Electricity sectors except for sector-specific designated expenses. The key movements in the proposed budget for the fiscal year 2021-22, when compared to the approved budget for 2020-21 are as follows:

- i. A decrease of \$328,600 (43%) in consulting services due to the focus on internal capacity versus consultancy in projects undertaken by the RA.
- ii. A decrease in commissioners' honoraria⁸ by \$72,000 (27%).
- iii. An increase in staff costs by \$50,000 (3%) is primarily due to the planned hiring of a Communications Specialist.
- iv. The increase in capital expenditure by \$35,500 (148%) mainly due to the planned installation of the RF EMF Network monitoring system.
- v. An increase in Operating costs by \$176,700 (45%) is largely due to the increase in the provision for litigation.

TABLE 5: Electronic Communications Budget Prior Year Comparison

	2021-22	2020-21	Increase/ (Decrease)
REVENUES	3,275,000	3,460,000	(185,000)
Staff	1,690,000	1,640,000	50,000
Commissioners	198,000	270,000	(72,000)
Office Space	186,750	186,750	-
Office Services	133,750	130,000	3,750
Consulting Services	435,000	763,600	(328,600)
Operating Costs	571,700	395,000	176,700
TOTAL OPERATING EXPENSES	3,215,200	3,385,350	(170,150)
TOTAL CAPITAL EXPENDITURE	59,500	24,000	35,500
TOTAL EXPENDITURE	3,274,700	3,409,350	(134,650)

⁸ Under active review with the Board of Commissioners.

ii. **Electricity**

To provide prior year comparison for the electricity sector, the RA's proposed Electricity expenditure budget for fiscal year 2021-22 is set out in Table 6 below. The RA's proposed total Electricity expenditure budget for the fiscal year 2021-22 increased by 634,250 (22%) when compared to its approved expenditure budget for the fiscal year 2020-21. Common costs have been allocated evenly between the Electronic Communications and Electricity sectors except for sector-specific designated expenses.

The key movements in the proposed budget for the fiscal year 2021-22 when compared to the approved budget for 2020-21 are as follows:

- i. An increase of \$930,000 (365%) in consulting services largely due to the RA's projects required to implement the multi-year Retail Tariff review, the Solar procurement, the Wind Studies and ongoing knowledge transfer.
- ii. An increase in staff costs by \$39,000 (2%) is primarily due to the planned hiring of a Communications Specialist and loss of the Project Manager role.
- iii. A decrease in operating expenses by \$256,000 (79%) primarily due to the decrease in the budgeted provision for litigation and mediation.
- iv. A decrease in commissioners' honoraria by \$72,000 (27%).

TABLE 6: Electricity Budget Prior Year Comparison

	2021-22	Exceptional items ⁹	2021-22	2020-21	Increase/ (Decrease)
RA Fees	3,471,000	-	3,471,000	2,861,000	610,000
Service fees	60,000	-	60,000	-	60,000
Total Revenue	3,531,000		3,531,000	2,861,000	670,000
Staff	1,745,000	-	1,745,000	1,706,000	39,000
Commissioners	198,000	-	198,000	270,000	(72,000)
Office Space	186,750	-	186,750	186,750	-
Office Services	133,750	-	133,750	130,000	3,750
Consulting Services	190,500	994,500	1,185,000	255,000	930,000
Operating Costs	69,000	-	69,000	325,000	(256,000)
TOTAL OPERATING EXPENSES	2,523,000	994,500	3,517,500	2,872,750	644,750
TOTAL CAPITAL EXPENDITURE	8,500	-	8,500	19,000	(10,500)
TOTAL EXPENDITURE	2,531,500	994,500	3,526,000	2,891,750	634,250

⁹ This relates to the Retail Tariff Review and the Wind Pre-feasibility studies which are deemed exceptional projects.

APPENDIX B - REQUEST TO APPROVE THE RA'S BUDGET FOR FISCAL YEAR 2021-22

Pursuant to sections 43(3) and 43(4) of the RAA, the RA hereby requests that the Minister of Finance, after making any modifications to the budget proposed by the RA that he deems necessary and proper, issue a decision approving the RA's proposed expenditure budget totaling \$6,800,700 for the fiscal year 2021-22 as set out in Table 1 (Page 20).

APPENDIX C – REQUEST AND RECOMMENDATION TO MAKE A REGULATION REGARDING RA FEES FOR THE FISCAL YEAR 2021-22

Pursuant to section 44(1) of the RAA, the RA hereby recommends that the Minister of Finance make a regulation ensuring that during fiscal year 2021-22 the RA Fees to be paid by:

- i. ICOL holders reduce to 1.70% of Annual Relevant Turnover;
- ii. SubCOL holders remain at 1% of Annual Relevant Turnover;
- iii. the Transmission, Distribution and Retail Service Provider increase to \$0.00635 per kilowatt-hour sold;
- iv. Utility Scale Electricity Generation providers (greater than 25 Megawatts of installed electricity generation capacity) remain at \$1,000 per Megawatt per annum of installed electricity generation capacity;
- v. Fossil Fuel Bulk Electricity Generation providers (greater than 0.5 Megawatts but less than 25 Megawatts of installed electricity generation capacity) remain at \$1,500 per Megawatt per annum of installed electricity generation capacity;
- vi. the Waste-to-Energy Bulk Electricity Generation provider (greater than 0.5 Megawatts but less than 25 Megawatts of installed electricity generation capacity) remain at \$1,500 per Megawatt per annum of installed electricity generation capacity;
- vii. Renewable Energy Bulk Electricity Generation providers (greater than 0.5 Megawatts but less than 25 Megawatts of installed electricity generation capacity) remain at \$1,500 per Megawatt per annum of installed electricity generation capacity; and
- viii. Self-supply Generation License provider (greater than 0.5 MegaWatts of installed electricity generation capacity) established at \$6,500 per MegaWatt.

Pursuant to Section 44(1) of the RAA, the RA hereby recommends that the Minister of Finance make a regulation to establish the recommended service fees per section 9 of this Preliminary Report.

APPENDIX D – RECOMMENDATION REGARDING GOVERNMENT AUTHORIZATION FEES FOR THE FISCAL YEAR 2021-22

Pursuant to Section 52(2) of the RAA, the RA hereby submits this recommendation to the Minister of Finance regarding the Government Authorization Fees to be adopted for fiscal year 2021-22. The RA recommends that there be no change to the Government Authorization Fees related to the Electronic Communications and Electricity sectors for the 2021-22 year.

APPENDIX E – RECOMMENDATION REGARDING REGULATORY AUTHORITY SERVICE FEES

Pursuant to section 44 (3) of the RAA, the RA hereby recommends that the Minister of Finance make a regulation ensuring that during fiscal year 2021-22 to set the RA Service Fees

Electricity	
Administration Fees	Proposed Fee
- Concentration Review	\$25,000
- Licence Transfer	\$25,000
- Bulk Generation Proposal Review	\$10,000
- Large-Scale Self-Supply Licence	\$15,000

- Electronic Communications	
Administration Fees	Proposed Fee
- Application for ICOL	\$85,000
- Application for HDS Spectrum	\$15,000
- Application for Non-HDS Spectrum	-
- Application for Licence Exemption	\$320
- Concentration Review	\$25,000
- Change of Control	\$2,400
- Inspection Fees	
- Network interference investigation	\$1,500
- Radio Frequency Hazard Analysis	\$500

APPENDIX F – SUMMARY OF RESPONSES TO WORK PLAN CONSULTATION

Introduction

1. Section 43(2) of the RAA requires the RA to initiate a public consultation regarding its Work Plan for the upcoming financial year not later than six months before the commencement of each financial year. Pursuant to this obligation, the consultation on the Work Plan 2021-22 (the “Work Plan Consultation”) was published by the RA on 30 September 2019. Interested third parties were invited to respond to the Consultation by 28 October 2019 (the “Consultation Period”).
2. During the Consultation Period, the RA received written non-confidential comments on the Work Plan Consultation from BELCO, One Communications and Digicel.
3. The RA’s Work Plan Consultation sets out the RA’s Work Plan for the period 1 April 2021 to 31 March 2022. It provides details on the consultation procedures and the legislative context under which the consultation is undertaken. It includes the RA’s current mandate, strategic goals and the major activities it anticipates undertaking. The Work Plan also details the Proposed Budget and Projected Revenues which support the planned activities.
4. A full text of the submissions made in response to the Work Plan Consultation can be found on the RA’s website at www.ra.bm.
5. The RA is grateful for the responses received to this consultation. All comments have been carefully considered by the RA as a part of its process to refine its Work Plan for 2021-22. The following “Summary of Responses” summarizes the key comments made by the respondents and provides the RA’s responses to those comments.
6. For the avoidance of doubt, a failure to address, directly, or indirectly, any matter raised by a respondent to the Work Plan Consultation in this document is not an indication of the RA’s failure to take that matter into account or an acceptance or rejection of the position.

Summary of Responses

The RA has reviewed and considered the responses received and has addressed them as set forth in this section. This section provides an overview of the key themes from the responses to the proposed Work Plan 2020-21 fiscal year consultation and the resultant comments from the RA.

This key themes from the public responses are structured in this section as follows:

- I. Transparency of the Actual Activities;
- II. Sequencing of Activities;
- III. Request for Fee Reductions; and
- IV. Cross-subsidization of Regulated Sectors;

I. Transparency of the Actual Activities

Stakeholder Comment

One stakeholder response called for a higher degree of transparency from the RA relating to its issuance of historic financial statements. In One Communications Ltd and its affiliates' (collectively "OneComm") response it stated,

"...without information regarding what was actually spent in 2019 or 2018, it is not possible to provide informed comment regarding a proposed budget for 2020. We note the relatively recent publication of a number of overdue historical financial reports for the 3 fiscal periods ending 31 March 2015, 2016 and 2017. We also note, however, that the most current financial reports available to the public and the industry are still well over 2 years old."

RA Response

As OneComm notes, the RA's annual reporting is subject to a legislative process set out in the RAA, which includes dependencies on third parties to review and approve its financial statements prior to their publication.

As previously communicated in prior work plans, and in accordance with Section 46(2) of the RAA, the accounts of the RA are required to be audited by the Auditor General (the "Auditor") or such other auditor as may be appointed annually by the Auditor. Furthermore, in accordance with section 47(2) of the RAA, the RA considers it improper to release the audited annual financial statements to the public before the legislated process is completed, including the Minister having a copy of the annual financial statements laid before the House of Legislature and published in the Gazette.

However, the RA has taken steps FY2020/21 to improve the transparency. The RA has already submitted all of its annual accounts to the Auditor General and has now commenced publishing its quarterly unaudited accounts, which can be found at: <https://www.ra.bm/quarterly-financial-reports/>

II. Sequencing of Activities

Stakeholder Comment

One stakeholder response requested consideration of the in order of activities in the electricity sector. In Bermuda Electric Light Company Limited's ("BELCO") response it stated,

"BELCO notes the RA's intention, set out in section 7.7iii of the Consultation Document, to request an integrated resource plan ('IRP') proposal from the TD&R Licensee during the 2021-2022 fiscal year. BELCO also notes the RA's intention, set out in section 7.7iv. of the Consultation Document, to commence the first phase of a pre-feasibility wind study (the 'Pre-feasibility Study')."

Although BELCO has no objection to the issuance of a request for an IRP during the 2021-2022 fiscal year, BELCO asks the RA to consider the sequencing of such IRP request vis-à-vis the data that will be required for its preparation, such as the Pre-feasibility Study."

RA Response

The RA agrees with the feedback from BELCO and will coordinate the activities accordingly.

III. Request for Fee Reductions

Stakeholder Comment

Two stakeholders' responses requested consideration a reduction in fees in the electronic communications sector.

In Telecommunications (Bermuda & West Indies) Limited, Transact Limited and the Bermuda Telephony Company Limited's (collectively "Digicel") response it stated,

"Digicel respectfully requests that the current budget is revised in accordance with the relevant sector specific expenditure and the effect of the Covid pandemic. As such, the following is recommended for the Electronic Communications sector:

- (1) the temporary reduction of the Government Authorization Fees ('GAF');*
- (2) the reduction of the Regulatory Authority fee ('RAF'), at 1.50% for both ICOLs and SubCOLs holders;*
- (3) a temporary reduction of Spectrum Fees;*
- (4) a temporary reduction of Handset Fees for the consumers; and*
- (5) no change to the current Service Fees."*

RA Response

- i. The RA believes that GAF, Spectrum and Handset fees are set appropriately during this upcoming fiscal period, considering the severe financial stress on the Bermuda

Government. The RA may recommend a change in a future fiscal period when the economic outcome has improved.

- ii. The RA has reviewed the Electronic Communications (“EC”) RA fee. The RA has reduced its work scope due to the impact of the Covid pandemic and the greater maturity of the EC regulatory framework and therefore the related expense is projected to reduce. This has the effect of reducing the related expenses and the RA will recommend a reduction in the RA fee to the Minister. The RA fee for ICOL holders is different from the SubCOL holders due to the significantly restricted scope of activities available to the SubCOL holder and therefore the fees will not be set at the same level. The SubCOL fees are based on the anticipated cost impact on the RA.
- iii. The RA also notes the concern about net increases in consultancy costs **across all sectors**. These increases are related to electricity activities and as this industry’s regulatory framework matures this will decrease over time similar to the EC sector.

IV. Cross-subsidization of regulated sectors;

Stakeholder Comment

Two stakeholders’ responses requested consideration a reduction in fees in the electronic communications sector.

In OneComm’s response it stated,

“The RA proposes to fund its budgetary shortfall in electricity with a surplus of funds raised from the electronic communications sector. This cross-subsidizing approach is incorrect on a policy basis and is clearly not allowed under section 44(4) of the RAA. The proper approach would be to lower the fee percentage in electronic communications to ensure cost recovery but no more, and to increase revenues or decrease expenditures appropriately on the electricity side to ensure electricity revenues recover directly related costs.”

In Digicel’s response it stated,

“...It is agreed that the relevant sectoral fees should be set, based on the sector specific expenditures, or ‘according to the cost drivers of such fees’ (at page 4 of the WP)...”

RA Response

The RA noted the feedback and addressed this concern in the preliminary report.

APPENDIX G – SUMMARY OF RESPONSES TO WORK PLAN PRELIMINARY REPORT

Introduction

Section 43(3) of the RAA requires that not later than three months before the commencement of each financial year, the RA, after giving due consideration to the comments submitted in the public consultation, shall submit to all Ministers responsible for regulated industry sectors and to the Minister of Finance a preliminary report setting out the Authority's proposed work plan for the next financial year and a proposed budget, with a request for approval, in such form and in such detail as the Ministers may require, for the upcoming financial year.

1. During the Preliminary Report comment period, the RA received written non-confidential comments on the Work Plan Consultation from BELCO, One Communications and Digicel.
2. A full text of the submissions made in response to the Work Plan Consultation can be found on the RA's website at www.ra.bm.
3. The RA is grateful for the responses received to this consultation. All comments have been carefully considered by the RA as a part of its process to refine its Work Plan for 2021-22. The following "Summary of Responses" summarizes the key comments made by the respondents and provides the RA's responses to those comments.
4. For the avoidance of doubt, a failure to address, directly, or indirectly, any matter raised by a respondent to the Work Plan Consultation in this document is not an indication of the RA's failure to take that matter into account or an acceptance or rejection of the position.

Summary of Responses to Preliminary Report

The RA has reviewed and considered the responses received and has addressed them as set forth in this section. This section provides an overview of the key themes from the responses to the proposed Work Plan 2020-21 fiscal year consultation and the resultant comments from the RA.

The public responses are structured in this section by commenter as follows:

- I. BELCO;
- II. Digicel; and
- III. One Communications.

I. BELCO comments

a. Tariff Review Changes

BELCO questioned the change from the multi-year tariff to the basic one-year tariff review. BELCO stated,

“It is BELCO’s view that pursuing the originally contemplated 3-year tariff review is beneficial for a number of reasons, including the following:

1) a 3-year tariff review period would help reduce regulatory costs and, therefore, the costs incurred by BELCO’s customers. An example of this can be seen in the proposed fees for consulting services set out in the Consultation Documents. In the First Round Consultation Document, the fees for consulting services in connection with a 3-year tariff review period was projected to be \$749,000. Although this amount likely included sums for other projects before the RA, it is noteworthy that, when divided over a three-year period, consulting fees would be approximately \$250,000 per year, which is considerably lower than the \$385,000 proposed in the Second Round Consultation Document for consulting fees that would include a tariff review for a 1-year review period. BELCO firmly believes that a 3-year review would be more cost effective and in the best interests of all parties concerned;

2) 1-year tariff review periods place considerable burden on BELCO and the RA’s resources and therefore increase overall costs (which are ultimately passed on to BELCO’s customers); and

3) whilst 1-year tariff review periods provide greater short-term visibility, they lack the effective longer-term strategic value that 3-year tariff review periods would provide. As Bermuda moves toward a greener and less carbon-intensive future as contemplated by the Bermuda Integrated Resource Plan dated 30 June 2019, conducting 1-year tariff reviews appears to be inconsistent with this longer-term strategic plan and vision for Bermuda and its consumers.”

RA Response

The RA changed the scope from a multi-year review in the Consultation Document to a basic one-year review in the Preliminary Report due to the predicted inadequacy of

revenues to fund the multi-year review. The RA agrees with BELCO's assessment that the multi-year review is both more strategic, efficient and less burdensome on all parties. The RA has discussed this with the Minister responsible for Electricity and has reinstated the multi-year tariff review.

b. Revenue projections

BELCO questioned the change in revenue from the Transmission, Distribution and Retail Regulatory Authority Fee and the nature of the change.

RA Response

The RA increased the revenue projection based on demand projections received from BELCO's tariff submission, as the RA views these as more likely to be accurate than the RA's estimates. Further, based on the reinstatement of the multiyear tariff review and the fulsome wind studies, the RA fee is recommended for an increase in the RA fee.

c. Service Fees

BELCO questioned the change recommended change in late fees from \$105 to 10% per month and the administration of the fee.

RA Response

The RA recommended this as a deterrent for late submissions, as the RA has observed late submissions being used as a quasi-financing mechanism. This imposes a financing cost of the RA to address the resulting revenue shortfalls. However, the RA has withdrawn this recommendation and will use its enforcement powers to address this issue going forward. Further, the fee recommendations will result in revocation of prior fee regulations and new regulations being issued should the recommendations be adopted by the Minister.

d. Solar Procurement Fees

BELCO stated,

"BELCO understands that the basis for the projected increase in total revenue from \$2,482,000 in Table 6 of the First Round Consultation Document to \$2,663,000 in Table 6 of the Second Round Consultation Document is, in part, due to the added \$50,000 service fee from solar procurement applications received during the 2021-2022 fiscal year. It is not clear, however, from whom the \$50,000 service fee is to be collected and BELCO seeks clarity on this."

RA Response

The RA thanks BELCO for its observation. The RA will recommend a new fee for the evaluation of new bulk generation proposals, both solicited and unsolicited. This fee will be payable to the RA. The RA projects that it will likely receive at least five (5) bulk generation proposals as a result of the solar PV procurement effort.

II. Digicel comments

a. Total Expenditure Changes

Digicel stated,

“The proposed total expenditure (\$3,046,700), especially Operating Costs and Capital Expenditures of the Electronic Communications sector in the Preliminary Report is however, more than what the Authority proposed in the Draft Work Plan and Budget (\$2,710,425), without any supporting data or justifications as shown below.”

RA Response

The RA thanks Digicel for its observation. The RA has noted the significant increase in legal risk due to recent litigation against the RA from sectoral providers. Accordingly, the increase in total expenditure is meant to accommodate the possible costs arising from the litigation. There are no costs from any other sector included in the RA fees for the electronic communications sector. Therefore, the RA does not agree with Digicel’s recommendation in paragraph 19 to set the RAF at 1.50%.

b. Service Fees

In paragraphs 10 and 11 of the Digicel response, Digicel stated,

“As per above, the Authority is not only proposing to a significant increase in the service fees, especially the late filing fees (at 10% per month from \$105 last fiscal year) during this difficult time, but it is also introducing Application Fees for ICOL (\$85,000) and Application Fees for HDS Spectrum (\$15,000) in the Electronic Communications sector, without providing any justifications to the Minister or sectoral service providers. In fact, Section 4.4 of the Preliminary Report is grossly misleading and is providing incorrect information to the Minister regarding the Service Fees.

In addition, Digicel argues that imposing the late filing fee of 10% per month is disproportionate and inconsistent with the principle of Section 44(3) of the RAA: *‘the service fees recommended by the RA shall be designed to recover from a sectoral participant a reasonable estimate of the cost to the RA of performing the function for which the fee is assessed’[emphasis added].*”

RA Response

The RA thanks Digicel for its comments. The RA recommended the late fee change as a deterrent for late submissions, as the RA has observed late submissions being used as a quasi-financing mechanism. This imposes a financing cost of the RA to address the resulting revenue shortfalls. However, the RA has withdrawn this recommendation and will use its enforcement powers to address this issue going forward. Further, the fee recommendations will result in revocation of prior fee regulations and new regulations being issued should the recommendations be adopted by the Minister.

The assessment of the HDS application fees is based on the actual costs of the legal and technical assessments the recent ICOL applicants and are therefore based on real costs. The HDS Spectrum fee recommendation results in a decrease from

\$40,000 per application to \$15,000 due to this service being conducted by staff and not by consultants.

c. New Capital Expenditure the RF EMF Network Monitoring System

In paragraphs 13, 14 and 15 of the Digicel response, Digicel stated,

“The Authority states that a significant increase in capital expenditure of \$35,500 in the Electronic Communications sector is expected, mainly due to the **‘planned’** installation of the ‘RF EMF Network monitoring system’ *[emphasis added]*2.

It should be noted that the Authority is currently conducting a public consultation on ‘Radiofrequency 5G Safety’ (Matter: 20201023) (the **‘5G Consultation’**). See the relevant question of the 5G Consultation below:

‘4. Do you agree that a real-time, publicly accessible Radiofrequency field intensity monitoring network should be deployed and a dedicated fee be levied on relevant sectoral providers and end-users that use Radiofrequency spectrum to cover the cost of the deployment and ongoing maintenance?’

Therefore, the installation of the RF EMF Network monitoring system should be planned and confirmed, when the 5G Consultation and/or the Advisory Panel’s report on this matter is completed.

RA Response

The RA thanks Digicel for its comments. The RA is awaiting the final decision of the 5G Consultation. However, as this is an area of high concern in the community, the RA has provisioned for the potential launch of a monitoring network as a possible outcome. Delaying for an entire year until the next workplan is approved would not be likely well aligned with the public interest. It is possible that a manual measurement solution or none at all will be deployed.

I. One Communications comments

a. Financial Information Disclosure

In paragraph 3 of the One Communications response, One Communications stated,

“We note, however, that this disclosure is for a single quarter in a much longer period spanning back to 31 March 2017 which is the last date in respect of which the RA has published audited financials. If the interests of ‘openness, good governance and transparency’ support the release of this unaudited single quarter, it is clear that release of unaudited financials for the 3-year period following 31 March 2017 is also supported. We ask, pursuant to those interests and the RA’s PATI obligations, that the RA fully disclose for the entire period and adopt a practice of regularly disclosing such unaudited information in time for proper consideration by the public in each annual work plan and budget consultation. Preferably, the RA would include this unaudited information as part of its initial Work Plan consultation document each year.”

RA Response

The RA thanks One Communications for its response. The RA is continually endeavouring to improve its transparency. The initial unaudited accounts release has been followed with the release of additional unaudited accounts and this will continue on an ongoing basis. The RA will give consideration to One Communications’ recommendation but notes the difficulty of achieving the quarterly unaudited accounts retroactively given the staffing changes in the relevant periods i.e., the people that could provide the required context for those periods are no longer with the RA.

b. Deployment of an RF monitoring network

In paragraph 6 of the One Communications response, One Communications stated,

“The capabilities of, and need for, such a monitoring network are matters that should be consulted upon in the preliminary report that has not yet been finalized and issued. By making this part of its formal Work Plan, the RA is prejudging the need for such a measure and inappropriately budgeting for its cost in advance of the expert panel’s report on these issues. Accordingly, we ask the RA to reconsider its position on this point and remove it from the proposed Work Plan.”

RA Response

The RA thanks One Communications for its response. The RA is awaiting the final decision of the 5G Consultation. However, as this is an area of high concern in the community, the RA believes it is prudent to provision for the potential launch of a monitoring network as a possible outcome. Delaying for an entire year until the next workplan is approved would likely not be well aligned with the public interest. It is possible that a manual measurement solution or none at all will be deployed.