



Laid on the Table of Legislative Assembly on this *day of* *2020*

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**REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE
ON THE REPORT OF THE OFFICE OF THE AUDITOR GENERAL ON
THE EFFICIENCY AND EFFECTIVENESS OF THE UTILITY
REGULATION AND COMPETITION OFFICE (OFREG) - JUNE 2020**

1. REFERENCE

The Standing Public Accounts Committee of the Cayman Islands Legislative Assembly, established under Standing Order 77(1), met to consider the following Report prepared and submitted by the Auditor General:

Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg) - June 2020

2. DOCUMENT CONSIDERED

In accordance with the provision of Standing Order 77(3), the Committee considered the following Auditor General Report which was referred in the House of the Legislative Assembly:

Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg) - June 2020

3. CHAIRMAN AND MEMBERS OF THE COMMITTEE

The following Members of the Legislative Assembly are the present Members of the Standing Public Accounts Committee:

Mr. D Ezzard Miller, MLA – Chairman
Mr. Christopher S. Saunders, MLA – Member
Mr. Austin O. Harris, Jr, MLA – Member
Mr. Bernie A. Bush, MLA – Member
Hon. Barbara E. Conolly, MLA – Member
Mr. David Wight, MLA – Member

4. MEETINGS OF THE COMMITTEE

The Committee held seven (7) meetings to consider the Report:

- (i) Wednesday, 15th July 2020 (Hearing)
- (ii) Thursday, 16th July 2020 (Hearing)
- (iii) Wednesday, 22nd July 2020 (Hearing)
- (iv) Thursday, 23rd July 2020 (Hearing)
- (v) Friday, 24th July 2020 (Hearing)
- (vi) Wednesday, 9th September 2020 (Administrative Meeting)
- (vii) Wednesday, 7th October 2020 (Administrative Meeting)

5. ATTENDANCE OF MEMBERS

The attendance of Members at the meetings is recorded in the Minutes of Proceedings which are attached to and form part of this Report.

6. PERSONS IN ATTENDANCE

In accordance with Standing Order 77(8), the following persons were in attendance at the meetings held with witnesses.

- Mrs. Sue Winspear - Auditor General, Office of the Auditor General
- Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
- Ms. Yolanda Clarke, Audit Project Leader, Office of the Auditor General
- Ms. Erin McLean, Audit Trainee, Office of the Auditor General
- Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
- Ms. Anne Owens - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development
- Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development
- Ms. Gloria Myles - Deputy Accountant General, Ministry of Finance and Economic Development

7. WITNESSES CALLED BEFORE THE COMMITTEE

In accordance with the provisions of Standing Order 77(4), the Committee invited persons to give information and explanations to assist the Committee in the performance of its duties.

The following persons appeared before the Committee to give evidence on **Wednesday, 15th July 2020**:

- Dr. Hon. Linford Pierson - Chairman of the Board - Utility Regulation and Competition Office (OfReg)
- Mr. Samuel Rose - Cabinet Secretary and Chief Officer - Cabinet Office
- Mr. Gregg Anderson - Executive Director Energy & Utilities - Utility Regulation and Competition Office (OfReg)

The following persons appeared before the Committee to give evidence on **Thursday, 16th July 2020**:

- Mr. Duke Munroe - Executive Director Fuels - Regulation and Competition Office
- Mr. Alee Fa'amoe - Executive Director ICT - Regulation and Competition Office
- Mr. Malike Cummings - Chief Executive Officer - Regulation and Competition Office
- Mr. Ronnie Dunn - Deputy Chairman of the Board - Utility Regulation and Competition Office

The following persons appeared before the Committee to give evidence on **Wednesday, 22nd July 2020:**

- **Sol Petroleum Cayman Ltd.**
Mr. Pierre Magnan - President and Chief Executive Officer, SOL Investments SEZC & Parkland International
- **Rubis Cayman Islands**
Mr. Nicolas de Breyne - Vice President & Managing Director
- **Refuel Cayman**
Mr. Dow Travers - Chief Executive Officer
Mr. Michael Alberga – Attorney-at-Law
- **Brown's ESSO**
Mr. Johnny Brown - Chief Executive Officer, Brown's Group of Companies

The following persons appeared before the Committee to give evidence on **Thursday, 23rd July 2020:**

- **Caribbean Utilities Company (CUC)**
Mr. Richard Hew - Chief Executive Officer
Ms. Letitia Lawrence – Chief Financial Officer
- **Digicel Cayman Limited**
Mr. Raul Nicholson-Coe - Chief Executive Officer
- **Flow Cayman (Cable & Wireless)**
Mr. Daniel Tatham – Director
Mr. Giosino Colaiaacovo - Finance Manager
Mr. Rob Mayo-Smith - Business Consultant
Mr. David Burnstein - Senior Manager, Regulatory Affairs
Ms. Kecia Taylor - Manager Legal Affairs, Caribbean
- **C3 Pure Fibre**
Mr. Randy Merren - Managing Director
Mr. James Bergstrom - C3 Board Member
Mr. Kris Bergstrom - C3 Board Member

The following persons appeared before the Committee to give evidence on **Friday, 24th July 2020:**

- Mr. Duke Munroe - Executive Director Fuels, Regulation and Competition Office (OfReg)
- Mr. Colford Scott - Retired Managing Director, Department of Vehicle & Equipment Services (DVES) and consultant to the National Roads Authority (NRA)
- Mr. Alee Fa'amoe - Executive Director ICT, Regulation and Competition Office (OfReg)

8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77(6))

The Committee agreed that in accordance with the provisions of Standing Order 77(6), all meetings at which witnesses were invited to provide information should be held in an open forum. This decision was taken to promote openness and accountability in Government.

The Committee is troubled that some of the evidence given by the Chairman of OfReg was non-factual when he appeared as a witness before the Committee on Wednesday, 15th July.

During the Hearing the Auditor General intervened to correct the facts. The Committee was further concerned that despite the Auditor General's intervention, the Chairman of OfReg continued to make the same false statement.

Before the first witness was called on Thursday, 16th July, the Chairman and the Committee requested that the Office of the Auditor General analyze the discrepancy in the facts enunciated by the Chairman of OfReg on the previous day and report back to the Committee with evidence to support the Auditor General's assertion that the Chairman's testimony was inaccurate.

On Wednesday, 22nd July, before the first witness was called, the Chairman invited the Auditor General to present her findings to the Committee. The Auditor General assented and read into the record a prepared statement of her findings. The Committee accepted the Auditor General's evidence based findings that there were indeed inaccuracies in the Chairman of OfReg's testimony on Wednesday, 15th July when he appeared as a witness before the Committee.

In addition, subsequent to the Auditor General's verification of the facts using the audiotapes, a further check was made of the full verbatim transcripts of the Chairman's testimony and the Auditor General's findings were confirmed to be accurate and correct.

The PAC wishes to strongly discourage future incidents of witnesses providing false statements to the Committee.

9. PAC RECOMMENDATIONS

On review of the OAG's Report, critical analysis of five days of witness testimonies and lengthy deliberations amongst the Committee Members, the PAC make the following recommendations on how to improve the efficiency and effectiveness of the Utility Regulation and Competition Office (OfReg).

General:

9.01 The PAC endorses and strongly supports the sixteen recommendations of the Auditor General and her team.

Governance:

9.02 The Committee has serious concerns about the evidence given by the Chair of the OfReg Board and is of the opinion that the organisation is unlikely to make the progress that it needs with the current Chair in post. **The PAC strongly believes that the Government should consider appointing a new Chair to OfReg's Board as soon as possible.**

9.03 The Committee is concerned that despite OfReg being a statutory authority the Cabinet Secretary does not appear to have a strong enough oversight role as he does not have an ex-officio seat on the OfReg Board. **The Committee recommends that the Government remove any anomalies in the legislation to allow the Cabinet Secretary's role, in relation to oversight of OfReg, to be strengthened.**

9.04 The PAC heard evidence from OfReg and a number of the regulated utility service providers that the transition from the predecessor bodies to OfReg has resulted in delays in decision making, including market studies and assessments, licensing frameworks and regulatory decisions, known as administrative determinations. The PAC has serious concerns about the delays in OfReg's decision making. The Committee heard evidence from OfReg that a number of factors contributed to these delays, including the way the Board has been operating, the duty to consult as required by the Utility Regulation and Competition Law and the lack of access to regulatory lawyers. **The PAC recommends that the Government amends the legislation to require that timely decisions are made while ensuring that due process is followed to inform good quality decisions.**

The PAC also recommends that OfReg ensures that it has access to the regulatory legal advice and any other technical advice it needs to expedite regulatory decisions.

9.05 The PAC is concerned that the OfReg Board has been too involved in operational decisions and that further clarification is needed on the roles of Non-Executive Directors, including the Chair, and Executive Directors. **The PAC recommends that OfReg develops a clear understanding on the difference between the roles of its Non-Executives (Chair and Directors) and its Executive Directors.**

The PAC also recommends that OfReg amends its operating procedures to delegate decisions to the Chief Executive Officer and Executive Directors as appropriate.

9.06 The Committee noted the extended period that the Chief Executive Officer (CEO) post was vacant and concurs with the Auditor General's opinion that this resulted in a leadership gap. Despite the Chair of OfReg testifying that a succession plan for the CEO was prepared the PAC heard that other Board members were not

aware of this and the OAG confirmed that there was no record of this having been discussed or formally approved by the Board. To ensure this does not happen again, **the PAC recommends that the OfReg Board prepares and approves a succession plan for the Chief Executive Officer post and that it takes responsibility for implementing this.**

9.07 The Committee was concerned that no performance appraisals were done or feedback provided to the Executive Directors and Acting Chief Executive Officers in the first three years, and that the Executive Directors' performance objectives for 2020 had not been set at the time of the hearings in July 2020. **The PAC recommends that the Chief Executive Officer of OfReg sets performance objectives for the Executive Directors as soon as possible and in future years these are to be agreed in advance of the year starting.**

9.08 The Committee is disappointed that more than three years after its creation OfReg's website is incomplete with many pages stating "coming soon", including basic information such as the management team and Board of Directors. At the hearing on 16 July, the PAC heard that OfReg was in the process of commissioning a consultant to redesign the website. **The PAC recommends that OfReg updates its website as soon as possible and maintains this to keep it up-to-date.**

Regulation of the Fuels Sector:

The Committee acknowledges that the regulation of the fuel sector is relatively new; however, one of the reasons for the creation of OfReg was to ensure fairer fuel prices whilst safeguarding fuel quality and safety.

The PAC heard that OfReg aims to encourage price reduction through competition; however, it is concerned that there is limited competition in supplying fuel with only three suppliers in the market. The PAC has significant concerns about the price of fuel in the Cayman Islands and the lack of transparency in setting fuel prices.

9.09 The PAC is disappointed that the review of the fuels sector, which OfReg first referred to in 2018, that will be used to inform fuel prices, such as reasonable margins for wholesale and retail, and other market decisions has still not been completed. **The PAC recommends that OfReg should complete the market review of the fuel sector and make recommendations, including how to reduce the price of fuel, to the Cabinet as soon as possible.**

9.10 The PAC heard evidence that a number of factors contributed to higher fuel prices in the Cayman Islands when compared to other jurisdictions, including quality of fuel, transportation, cost of living, and service compared to self-pump. However, the PAC remains unclear how fuel prices are made up and would like to see better transparency of prices. **The PAC recommends that OfReg provides transparency on the make-up of fuel prices.**

9.11 The PAC heard evidence from CUC in relation to what it was charged by fuel wholesalers for freight and insurance costs to deliver the fuel from the point of purchase to the terminals in Grand Cayman. This evidence has led the PAC to conclude that there is a difference of \$2 to \$3 between the landed cost of fuel and retail prices. **The PAC recommends that the Government determine what the wholesale price of fuel is and that all retailers should be charged equivalent prices.**

9.12 The PAC heard that the quality of fuel in the Cayman Islands is of a higher specification when compared to other jurisdictions and that this should not be changed as it may adversely affect the performance of motor vehicles. The PAC also heard that some fuel suppliers augment their fuel with additives to enhance performance and/or reduce emissions. **The PAC recommends that OfReg ensures that the quality of fuel is maintained and monitors the additives used to supplement fuels.**

9.13 The PAC notes that the Government's National Energy Policy 2017-2037 states that it will explore with fuel suppliers the viability of introducing limited blends of ethanol (up to E10) and biodiesel (up to B5) but only one supplier in the Cayman Islands (Refuel) appears to be doing this. The PAC also heard that due to a lack of joined-up policy across government a number of barriers were in place to encourage this, for example Customs duties being charged on biodiesel additives, which contributes to higher prices. **The PAC recommends that the Government ensures that its legislation and policy in respect to energy and fuels are aligned across government to encourage innovation and ensure best prices for consumers.**

The PAC also recommends that the Government consider waiving duty on biodiesel and any other products that would help the move to greener fuel and contribute to its National Energy Policy.

9.14 The PAC is concerned that two of the players in the fuels market (Sol and Rubis) have significant market power as they are suppliers, wholesalers, distributors and retailers of fuel. The PAC acknowledges that Local Companies Control Licences (LCCLs) are awarded by the Department of Commerce and Investment. However, OfReg is obligated to ensure that licensees abide by the laws and conditions of their license and the PAC was disappointed, that despite OfReg testifying that they were aware of the way that they operate, they had taken no action to determine whether this was within the law and the terms of their LCCLs. The PAC believes that further investigation is needed. **The PAC recommends that OfReg determines whether Sol and Rubis are operating outside the requirements of their individual LCCLs and legislation.**

9.15 The PAC heard that the Fuels Directorate only has a headcount of four staff, including the Executive Director, and was operating with only 2 staff in place. The PAC is concerned that this may have contributed to delays in effective regulation of the fuels sector. **OfReg should ensure that it has sufficient staffing in place to properly regulate the fuels sector.**

Regulation of the ICT sector

The PAC acknowledges that the ICT sector was liberalized in 2004, which has resulted in more ICT providers entering the market and increasing competition; however, the PAC is concerned about the limited internet services across all three islands resulting from lack of choice in some areas and poor quality service.

9.16 The PAC heard evidence from OfReg and one of the ICT providers that there were problems with Datalink (a subsidiary of CUC) and Flow (Cable and Wireless) providing access to their infrastructure to help the roll out of internet services. The PAC also heard that OfReg has been reviewing the licensing framework for ICT for a number of years and as a result the licenses for some of the suppliers had expired and had been extended on more than one occasion. **The PAC recommends that OfReg develops and introduces a new ICT licensing framework as soon as possible.**

9.17 The Committee is disappointed that telecommunications providers have not invested in nor developed the broadband network as the Government had intended, leaving many households across the three islands without access to sufficient internet services. **The PAC recommends that OfReg enforce the conditions of license agreements with internet providers, particularly in respect to infrastructure sharing, to ensure that they roll out of better internet services throughout the Cayman Islands.**

9.18 The PAC is disappointed that the telecommunications providers have not maintained the infrastructure and that many of the poles and lines are in a bad state of repair. **The PAC recommends that the Government amends its license agreements for the ICT sector to include a requirement to maintain high quality infrastructure.**

The PAC also recommends that OfReg should monitor the quality and safety of the infrastructure and ensure that poles and lines not in use are removed.

9.19 The PAC heard evidence that despite OfReg having made regulatory decisions in relation to infrastructure sharing, these had been ignored by ICT providers. **The PAC recommends that the Government amend the legislation to allow OfReg to impose penalties if ICT providers do not comply with their administrative determinations.**

9.20 The PAC notes from the OAG report and witness testimony that Infrastructure Sharing Regulations for the ICT sector have been in place since 2003; however, the PAC heard that there is resistance from the original telecommunications companies in sharing the infrastructure with new ICT providers in the market. The PAC is concerned that this is significantly inhibiting the roll out of internet services throughout Grand Cayman and the Sister Islands and believes that OfReg needs to be more forceful in its enforcement of compliance with them. **The PAC recommends that OfReg compel the telecommunications companies to share their infrastructure as set out in the regulations to speed up the rollout of internet services.**

10. GOVERNMENT MINUTE

The Public Accounts Committee wishes to draw Government's attention to Standing Order 77 sub-order 7 which reads:

"The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the report of the Auditor General to which it relates."

The PAC expects the Government to honour the requirements of this Standing Order.

ACKNOWLEDGEMENTS

The Committee is most appreciative of the efforts of the Auditor General and her staff in presenting a very fair, comprehensive and informative Report and for the support, assistance and constructive advice given throughout its deliberations.

The Committee wishes to thank the staff of the Legislative Assembly for the assistance provided.

The Committee also wishes to thank the private sector partners for their contributions to this Report.

REPORT OF THE COMMITTEE TO THE HOUSE

The Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the following Report of the Office of the Auditor General:

Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg) – June 2020

Mr. D. Ezzard Miller, MLA – Chairman

Mr. Bernie A. Bush, MLA – Member

Mr. Christopher S. Saunders, MLA – Member

Hon. Barbara E. Conolly, MLA – Member

Mr. Austin O. Harris, Jr, MLA – Member

Mr. David Wight, MLA – Member



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Wednesday, 15th July 2020 at 10:14 am

EFFICIENCY AND EFFECTIVENESS OF THE UTILITY REGULATION AND COMPETITION OFFICE (OFREG) - JUNE 2020

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Barbara E. Conolly, JP, MLA – Member
Mr. Bernie Bush, MLA - Member
Mr. Austin O. Harris, Jr., MLA – Member
Mr. David Wight, MLA – Member

PAC Clerk: Ms. Manesa Webb

Attendees: Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
Ms. Yolanda Clarke, Audit Project Leader, Office of the Auditor General
Ms. Erin McLean, Audit Trainee, Office of the Auditor General
Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development

Witnesses: Dr. Hon. Linford Pierson - Chairman of the Board, Utility Regulation and Competition Office (OfReg)
Mr. Samuel Rose - Cabinet Secretary and Chief Officer - Cabinet Office
Mr. Gregg Anderson - Executive Director Energy & Utilities, Utility Regulation and Competition Office (OfReg)

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the Public Accounts Committee Meeting to order at 10:14 am.

2. Welcome

The Chairman gave a brief welcome to Members of the Committee and thanked them for attending the Public Accounts Committee (“PAC”) Hearing. He welcomed Mr David Wight to his first PAC Meeting, as the newest member of the PAC. He also welcomed and thanked Mrs. Sue Winspear, along with Mr. Kenneth Jefferson and Mr. Matthew Tibbetts.

3. Consideration of the Report of the Auditor General:

The Utility Regulation and Competition Office (Ofreg)

The Chairman invited the witness, Dr. Hon. Linford Pierson, to the Chamber. Administration of oath was administered, and thereafter, Dr. Hon. Linford Pierson was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Before departing the Chamber Dr. Hon. Linford Pierson was again thanked by the Chairman.

The Chairman invited the witness, Mr. Samuel Rose, to the Chamber. Administration of oath was administered, and thereafter, Mr. Samuel Rose was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

Discussion ensued with questions being asked to Mr. Samuel Rose by the PAC members. Before departing the Chamber, Mr. Samuel Rose was again thanked by the Chairman.

The Chairman invited the witness, Mr. Gregg Anderson, to the Chamber. Administration of oath was administered, and thereafter, Mr. Gregg Anderson was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

Discussion ensued with questions being asked to Mr. Gregg Anderson by the PAC members. Before departing the Chamber, Mr. Gregg Anderson was again thanked by the Chairman.

4. Any Other Business

There was no other business on the agenda.

5. Scheduling of Next Meeting

The next meeting was confirmed for:

- Thursday, July 16th, 2020 at 9:00 am

6. Adjournment

There being no further business, the meeting was adjourned at 4:51 pm.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Thursday, 16th July 2020 at 10:14 am

EFFICIENCY AND EFFECTIVENESS OF THE UTILITY REGULATION AND COMPETITION OFFICE (OFREG) - JUNE 2020

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Barbara E. Conolly, JP, MLA – Member
Mr. Bernie Bush, MLA - Member
Mr. Austin O. Harris, Jr., MLA – Member
Mr. David Wight, MLA - Member

PAC Clerk: Ms. Manesa Webb

Attendees: Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
Ms. Yolanda Clarke, Audit Project Leader, Office of the Auditor General
Ms. Erin McLean, Audit Trainee, Office of the Auditor General
Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development

Witnesses: Mr. Duke Munroe - Executive Director Fuels, Regulation and Competition Office (OfReg)
Mr. Alee Fa'amoe - Executive Director ICT, Regulation and Competition Office (OfReg)
Mr. Malike Cummings - Chief Executive Officer, Regulation and Competition Office (OfReg)
Mr. Ronnie Dunn - Deputy Chairman of the Board, Utility Regulation and Competition Office (OfReg)

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the Public Accounts Committee Meeting to order at 10:20 am.

2. Welcome

The Chairman gave a brief welcome to Members of the Committee and thanked them for attending the Public Accounts Committee (“PAC”) Hearing. He also welcomed and thanked Mrs. Sue Winspear, along with Mr. Kenneth Jefferson and Mr. Matthew Tibbetts.

The Committee asked the Auditor General to fact check the claims by Dr. the Hon. Linford Pierson of inaccuracies in the report and support her findings with evidence where appropriate. The Committee asked for this report for Wednesday, July 22nd, 2020, meeting of the Committee.

3. Consideration of the Auditor General’s Report:

The Utility Regulation and Competition Office (Ofreg)

The Chairman invited the witness, Mr. Duke Munroe, to the Chamber. Administration of oath was administered, and thereafter Mr. Duke Munroe was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. The Committee members indicated that they had additional questions to ask Mr. Munroe however as there was another witness waiting they would defer the questions to another date. Before departing the Chamber Mr. Duke Munroe was again thanked by the Chairman.

The Chairman invited the witness, Mr. Aleé Fa’amoe, to the Chamber. Administration of oath was administered, and thereafter, Mr. Aleé Fa’amoe was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

Discussion ensued with questions being asked to Mr. Aleé Fa’amoe by the PAC members. The Committee agreed that any additional questions would be asked at another date. Before departing the Chamber, Mr. Aleé Fa’amoe was again thanked by the Chairman.

The Chairman invited the witness, Mr. Malike Cummings, to the Chamber. Administration of oath was administered, and thereafter, Mr. Malike Cummings was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

Discussion ensued with questions being asked to Mr. Malike Cummings by the PAC members. Before departing the Chamber, Mr. Malike Cummings was again thanked by the Chairman.

The Chairman invited the witness, Mr. Ronnie Dunn, to the Chamber. Administration of oath was administered, and thereafter, Mr. Ronnie Dunn was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

Discussion ensued with questions being asked to Mr. Ronnie Dunn by the PAC members. Before departing the Chamber, Mr. Ronnie Dunn was again thanked by the Chairman.

4. Any Other Business

The Committee agreed to schedule another hearing with Mr. Duke Munroe and Mr. Alee Fa'amoe on Friday July 24th, 2020.

Mr. Duke Munroe and Mr. Alee Fa'amoe confirmed their attendance for Friday July 24th, 2020. They are to be informed of the specific times for appearances before the Committee.

5. Scheduling of Next Meeting

The next meetings were confirmed for:

- Wednesday, July 22nd, 2020 at 9:00 am (*Hearing*)
- Thursday, July 23rd, 2020 at 9:00 am (*Hearing*)
- Thursday, July 23rd, 2020 at 4:00 pm (*Administrative Meeting*)
- Friday, July 24th, 2020 at 9:00 am (*Hearing*)

6. Adjournment

There being no further business, the meeting was adjourned at 5:00 pm.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Wednesday, 22nd July 2020 at 9:24 am

EFFICIENCY AND EFFECTIVENESS OF THE UTILITY REGULATION AND COMPETITION OFFICE (OFREG) - JUNE 2020

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Barbara E. Conolly, JP, MLA – Member
Mr. Bernie Bush, MLA - Member
Mr. Austin O. Harris, Jr., MLA – Member
Mr. David Wight, MLA – Member

PAC Clerk: Ms. Manesa Webb

Attendees: Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
Ms. Gloria Myles- Deputy Accountant General, Ministry of Finance and Economic Development

Witnesses: **Sol Petroleum Cayman Ltd**
Mr. Pierre Magnan - President and Chief Executive Officer, SOL Investments SEZC & Parkland International

Rubis Cayman Islands
Mr. Nicolas de Breynne - Vice President and Managing Director

Refuel Cayman
Mr. Dow Travers - Chief Executive Officer
Mr. Michael Alberga, Attorney-at-Law

Brown's ESSO
Mr. Johnny Brown - Chief Executive Officer, Brown's Group of Companies

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the Public Accounts Committee Meeting to order at 9:24 am.

2. Welcome

The Chairman gave a brief welcome to Members of the Committee and thanked them for attending the Public Accounts Committee (“PAC”) Hearing. He also welcomed and thanked Mrs. Sue Winspear, along with Mr. Kenneth Jefferson and Ms. Gloria Myles.

The Chairman invited the Auditor General to make a statement about the allegations made by Dr. Hon. Linford Pearson, during the hearing held on July 15th, 2020. The Claims made by Dr. Hon. Linford Pierson was that the audit was inaccurate in several areas of the report.

The Chairman invited a motion that was moved by the Committee to remove elements of Dr. Hon. Linford Pearson inaccurate evidence from the record. The motion moved by Mr. Christopher Saunders and seconded by Hon. Barbara Conolly. The Committee unanimously approved the motion.

3. Consideration of the Auditor General’s Report:

Efficiency and Effectiveness of the Utility Regulation and Competition Office (Ofreg) - June 2020

Sol Petroleum Cayman Ltd

The Chairman invited the witness, Mr. Pierre Magnan, to the Chamber. Administration of oath was administered, and thereafter Mr. Pierre Magnan was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Pierre Magnan by the PAC members. Before departing the Chamber, Mr. Pierre Magnan was again thanked by the Chairman.

Rubis Cayman Islands

The Chairman invited the witness, Mr. Nicolas de Breyne, to the Chamber. Administration of oath was administered, and thereafter Mr. Nicolas de Breyne was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Nicolas de Breyne by the PAC members. Before departing the Chamber, Mr. Nicolas de Breyne was again thanked by the Chairman.

Refuel Cayman

The Chairman invited the witness, Mr. Dow Travers, to the Chamber. Administration of oath was administered, and thereafter Mr. Dow Travers was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Dow Travers by the PAC members. Before departing the Chamber, Mr. Dow Travers was again thanked by the Chairman.

Brown's ESSO

The Chairman invited the witness, Mr. Johnny Brown, to the Chamber. Administration of oath was administered, and thereafter Mr. Johnny Brown was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Johnny Brown by the PAC members. Before departing the Chamber, Mr. Johnny Brown was again thanked by the Chairman.

4. Any Other Business

There was none.

5. Scheduling of Next Meeting

The next meetings were confirmed for:

- Thursday, July 23rd, 2020 at 9:00 am (*Hearing*)
- Thursday, July 23rd, 2020 at 4:00 pm (*Administrative Meeting*)
- Friday, July 24th, 2020 at 9:00 am (*Hearing*)

6. Adjournment

There being no further business, the meeting was adjourned at 3:45 pm.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Thursday, 23rd July 2020 at 9:19 am

EFFICIENCY AND EFFECTIVENESS OF THE UTILITY REGULATION AND COMPETITION OFFICE (OFREG) – JUNE 2020

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Barbara E. Conolly, MLA – Member
Mr. Bernie Bush, MLA - Member
Mr. Austin O. Harris, Jr., MLA – Member
Mr. David C. Wight, MLA - Member

PAC Clerk: Mrs. Patricia Priestley

Attendees: Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development
Mrs. Gloria Myles - Deputy Accountant General, Ministry of Finance and Economic Development

Witnesses: **Caribbean Utilities Company (CUC)**
Mr. Richard Hew - Chief Executive Officer
Ms. Letitia Lawrence – Chief Financial Officer

Digicel Cayman Limited
Mr. Raul Nicholson-Coe - Chief Executive Officer

Flow Cayman (Cable & Wireless)
Mr. Daniel Tathum - Director
Mr. Giosino Colaiacovo - Finance Manager
Mr. Rob Mayo-Smith - Business Consultant

Virtual Attendees:

Mr. David Burnstein - Senior Manager, Regulatory Affairs
Ms. Kecia Taylor - Manager Legal Affairs, Caribbean

C3 Pure Fibre

Mr. Randy Merren - Managing Director

Mr. James Bergstrom - C3 Board Member

Mr. Kris Bergstrom - C3 Board Member

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the Public Accounts Committee Meeting to order at 9:19 am.

2. Welcome

The Chairman gave a brief welcome to Members of the Committee, together with Attendees and thanked them for attending the fourth day of the Public Accounts Committee ("PAC") Hearing dealing with the Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg) – June 2020.

Caribbean Utilities Company (CUC)

The Chairman invited the witness, Mr. Richard Hew, together with his colleague, Ms. Letitia Lawrence, to the Chamber. Administration of oaths were administered, and thereafter, the witnesses were welcomed and thanked by the Chair for attending the meeting.

The hearing commenced but before inviting questions from the Members, the Chairman wished to address correspondence received from Mr. Hew's attorneys querying the PAC's legal authority to compel Mr. Hew to appear before it. The Chairman read aloud verbatim, a letter from Appleby, for the record. Thereafter the Chairman read aloud his prepared response to said letter from Appleby. The Chairman instructed the Clerk to ensure that both Appleby's letter and the Chairman's response be attached to the PAC Report for tabling in the House.

Mr. Saunders spoke in support of the Chairman's response and further elaborated on the reasoning behind the PAC's request for Mr. Hew's attendance at the hearing.

The Chairman invited the Members to question the witnesses and reminded the witnesses to state their names and titles for the record before answering the first question addressed to them. Discussion ensued.

Before departing the Chamber Mr. Richard Hew and Ms. Letitia Lawrence were again thanked by the Chairman for voluntarily attending the hearing.

Digicel Cayman Limited

The Chairman invited the witness, Mr. Raul Nicholson-Coe, to the Chamber. Administration of oath was administered, and thereafter, Mr. Raul Nicholson-Coe was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

Discussion ensued with questions being asked to Mr. Raul Nicholson-Coe by the PAC Members. Before departing the Chamber, Mr. Raul Nicholson-Coe was again thanked by the Chairman.

Flow Cayman (Cable & Wireless)

The Chairman invited the witnesses, Mr. Daniel Tatham, Mr. Giosino Colaiacovo and Mr. Rob Mayo-Smith, to the Chamber. Administration of oath was administered, and thereafter, Mr. David Burnstein and Ms. Kecia Taylor joined the meeting via Zoom. Mr. Daniel Tatham, Mr. Giosino Colaiacovo and Mr. Rob Mayo-Smith were welcomed and thanked by the Chair for attending the meeting and told to state their names and titles for the record.

Discussion ensued with questions being asked to the witnesses by the PAC Members. Before departing the Chamber, Mr. Daniel Tatham, Mr. Giosino Colaiacovo and Mr. Rob Mayo-Smith were again thanked by the Chairman.

C3 Pure Fibre

The Chairman invited the witnesses, Mr. Randy Merren, Mr. James Bergstrom and Mr. Kris Bergstrom, to the Chamber. Administration of oath was administered, and thereafter, Mr. Randy Merren, Mr. James Bergstrom and Mr. Kris Bergstrom were welcomed and thanked by the Chair for attending the meeting and told to state their names and titles for the record.

Discussion ensued with questions being asked to the witnesses by the PAC Members. Mr. Merren informed Members that C3 has filed nine different complaints to OfReg. Mr. Merren advised Members that, in his opinion, OfReg was powerless and ineffective. He felt OfReg should have an in-house regulatory attorney and Government should consider amending the regulatory law to introduce a graduated set of penalties or fines for noncompliance.

Reference was made to the documentation provided to the Members for consideration, in advance of the hearing, by Mr. Randy Merren, including a Report prepared by Towerhouse LLP analyzing regulatory issues in the Cayman Islands.

Before departing the Chamber, Mr. Randy Merren, Mr. James Bergstrom and Mr. Kris Bergstrom were again thanked by the Chairman.

3. Any Other Business

- i. The Chairman asked for Members to consider inviting Mr. Colford Scott to attend as a witness the following day. The Chairman informed Members that Mr. Scott is a Caymanian with extensive knowledge of the impact of various fuel rates on vehicles as he ran the Department of Vehicle & Equipment Services (DVES) for many years and he now works as a consultant to the National Roads Authority (NRA) on the purchase of vehicles. Mr. Scott has no affiliation with any of the vehicle dealerships or fuel dealerships and he would therefore be able to provide independent expert evidence on the subject of fuels and their effect on vehicles.

A motion to invite Mr. Colford Scott was moved by Mr. Christopher Saunders and seconded by Ms. Barbara Conolly. The Chairman asked the Clerk to invite Mr. Scott to attend the PAC Hearing on Friday 24 July 2020 at 11:30 am.

- ii. The Chairman reminded the Members of the Administrative Meeting scheduled to immediately follow the hearing, to which their presence was requested.

4. Adjournment

There being no further business, the meeting was adjourned at 4:10 pm.

Response to CUC Legal Letter

Firstly, I want to thank you for attending this meeting of the Public Accounts Committee.

Before getting started, there is a bit of housekeeping that we need to address with regards to the letter than was sent to the Clerk of the Public Accounts Committee that was drafted by your lawyers at Appleby on the 14th of July 2020.

The content of the letter is as follows:

Read letter

Unfortunately, your lawyers erroneously referred to the Public Accounts Committee as a Standing Select Committee. Had they taken the time to look at Arrangement of Orders of the Legislative Assembly Standing Orders on Page 6 they would have realized that Sections 70 to 74 deal with Select Committee and Sections 75 through 81 deal with Standing Committees.

For your edification and the listening public, please note the following with regards to Select Committees:

Read Sections

- 70(1)
- 71
- 72(1)
- 72(5)

Note that the sittings of a Select Committee are held in Private. I am sure that you will agree that private meetings don't apply to the **Public** Accounts Committee.

With regards to the Public Accounts Committee, please note the following:

Read Sections

- 77(1) a – Please emphasize STANDING COMMITTEE
- 77(1) b
- 77(1) c

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Please emphasize 77 (1) c - The committee thinks that your attendance and the attendance of others is incidental to the performance of

Additionally, I am sure that you and the listening public will agree that if there was a report by a Government entity that criticize or embarrass a private sector company or individual that natural justice would require that they be afforded the opportunity to come before this body to defend or clear their reputation.

I would also like to use this opportunity to draw your attention to the Legislative Assembly (Immunities, Powers and Privileges Law) 2015 Revision which your attorneys made no reference to in their letter.

In particular, I want to draw your attention to

- Section 5(1)
- Section 6(1)
- Section 6(2)
- Section 6(3)
- Section 18(1) a to g

I hope that this clarifies any misunderstandings as to the responsibility that this Committee or the Legislative Assembly has in getting to the bottom of issues that are of National Importance to the people of the Cayman Islands, your customers that we all serve.

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Grand Cayman KY1-1103
Cayman Islands

Attention Ms Manesa Webb

Direct Dial +1 345 814 2956

Tel +1 345 949 4900

Your Ref

Appleby Ref 304332.0264/PMQC/DHH

By Email

14 July 2020

Dear Ms Webb

Reports of the Auditor General

We are writing to you in connection with your letter of 3 July 2020 to Mr Richard Hew, on which he has sought our advice. Your letter is written in connection with the Report of the Auditor General (Report) into the Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg), which is currently before the Public Accounts Committee (PAC). Your letter requests Mr Hew in his capacity as the President and Chief Executive Officer of Caribbean Utilities Company Ltd (CUC) to attend before the PAC- in fact the letter states "you are being summons to meet with the Committee".

CUC supports the work of the Auditor General and the PAC to improve the Efficiency and Effectiveness of OfReg and Mr Hew is willing to appear before the PAC in connection with the Report. The language of your letter suggests that you may consider that the PAC has the power to compel Mr Hew to attend before it. If that is the case, we respectfully disagree.

The PAC is governed by Standing Order 77, which provides at 77(4):

"In accordance with Standing Order 72, the Public Accounts Committee may call any public officer, or in the case of a report on the accounts of or relating to a non-Government body or organization, any member or servant of that body or organization, to give information or any explanation or to produce any records or documents which the Committee may require in the performance of their duty".

Standing Order 72 provides at 72(1):

"Every select committee shall have power to send for persons, papers and records".

Appleby (Cayman) Ltd. (the Legal Practice) is a company limited by shares incorporated in the Cayman Islands and approved and recognised under the Legal Practitioners (Incorporated Practice) Regulations 2006 (as amended). "Partner" is a title referring to a director, shareholder or an employee of the Legal Practice. A list of such persons can be obtained from your relationship partner.

Clerk of the Public
Accounts Committee
Email dhayward-
hughes@applebyglobal.co
m
Legislative Department

102586639v1

Bermuda ■ British Virgin Islands ■ Cayman Islands ■ Guernsey ■ Hong Kong ■ Isle of Man ■ Jersey ■ Mauritius ■ Seychelles ■ Shanghai

The PAC is a standing select committee whose function is to consider reports of the Auditor General (Standing Order 77(1)). Under Standing Order 77(4) the power to send for persons, papers and records conferred by Order 72(1) is, in the case of the PAC, confined to (1) any public officer or (2) a member or servant of an organisation which it is itself the subject of a report that is before the PAC. Mr Hew is not a public officer and CUC is not itself the subject of the Report of the Auditor General (OfReg is). As such the case clearly falls outside Order 77(4) and the consequence of that is that the PAC has no power to compel Mr Hew to appear or to produce documents.

Nevertheless, and as we have pointed out, Mr Hew is willing to attend voluntarily. Mr Hew has noted that you wish him to fully apprise himself on this matter so as to be able to provide the Committee with information. Mr Hew will, of course, consider the Report itself, but if there are specific matters that the PAC would wish him to inform them about or explain to them then we would invite you to let him know what they are in order that he can apprise himself accordingly and thereby assist the PAC with regard to those specific matters.

Mr Hew will attend in the company of Ms Letitia Lawrence who is VP, Finance and Corporate Services and the Chief Financial Officer of CUC.

Yours sincerely

A handwritten signature in blue ink that reads "Appleby (Cayman) Ltd". The signature is written in a cursive, flowing style.

Appleby (Cayman) Ltd.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Friday, 24th July 2020 at 9:24 am

EFFICIENCY AND EFFECTIVENESS OF THE UTILITY REGULATION AND COMPETITION OFFICE (OFREG) - JUNE 2020

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Hon. Barbara E. Conolly, JP, MLA - Member
Mr. Bernie Bush, MLA - Member
Mr. Austin O. Harris, Jr., MLA - Member
Mr. David Wight, MLA - Member

PAC Clerk: Ms. Manesa Webb

Attendees: Mrs. Sue Winspear - Auditor General, Office of the Auditor General
Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development
Ms. Gloria Myles - Deputy Accountant General, Ministry of Finance and Economic Development

Witnesses: Mr. Duke Munroe - Executive Director Fuels, Regulation and Competition Office (OfReg)
Mr. Colford Scott - Retired Managing Director, Department of Vehicle & Equipment Services (DVES) and consultant to the National Roads Authority (NRA)
Mr. Alee Fa'amoe - Executive Director ICT, Regulation and Competition Office (OfReg)

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the Public Accounts Committee Meeting to order at 9:24 am.

2. Welcome

The Chairman gave a brief welcome to Members of the Committee and thanked them for attending the Public Accounts Committee (“PAC”) Hearing. He also welcomed and thanked Mrs. Sue Winspear, along with Mr. Kenneth Jefferson and Ms. Gloria Myles.

3. Consideration of the Auditor General’s Report:

The Utility Regulation and Competition Office (Ofreg)

The Chairman invited the witness, Mr. Duke Munroe, to the Chamber. Due to being recalled by the Committee, Administration of oath was administered on July 22nd, 2020. Mr. Duke Munroe was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Duke Munroe by the PAC members. Before departing the Chamber Mr. Duke Munroe was again thanked by the Chairman.

National Roads Authority (NRA)

The Chairman invited the witness, Mr. Calford Scott, to the Chamber. Administration of oath was administered, and thereafter Mr. Calford Scott was welcomed and thanked by the Chair for attending the meeting on such short notice and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Calford Scott by the PAC members. Before departing the Chamber, Mr. Calford Scott was again thanked by the Chairman.

The Utility Regulation and Competition Office (Ofreg)

The Chairman invited the witness, Mr. Aleo Fa’amoe, to the Chamber. Due to being recalled by the Committee, Administration of oath was administered on July 22nd, 2020. Mr. Aleo Fa’amoe was welcomed and thanked by the Chair for attending the meeting and told to state his name and title for the record.

The hearing commenced with questions being asked to the witness by the PAC members. Discussion ensued with questions being asked to Mr. Aleo Fa’amoe by the PAC members. Before departing the Chamber Mr. Aleo Fa’amoe was again thanked by the Chairman.

4. Any Other Business

There was none.

5. Scheduling of Next Meeting

There was none.

6. Adjournment

There being no further business, the meeting was adjourned sine die at 3:02 pm.



Legislative Assembly of the Cayman Islands

PUBLIC ACCOUNTS COMMITTEE

MINUTES

Meeting held

Wednesday, 9th September 2020 at 10:00 am

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Mr. Austin O. Harris, Jr., MLA - Member
Hon. Barbara E. Conolly, MLA - Member
Mr. David C. Wight, MLA - Member

PAC Members Absent:

Mr. Christopher S. Saunders, MLA - Member
Mr. Bernie A. Bush, MLA - Member

PAC Clerk: Mrs. Patricia Priestley

Attendees: Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
Via Zoom: Mrs. Sue Winspear - Auditor General

1. Meeting to Order

There being a quorum present, the Chair called the meeting to order at 10:23 am.

2. Apologies

None.

3. Approval of PAC Minutes

i. Wednesday, 22nd July 2020 (Hearing)

The Witness section of the Minutes was amended to refer to the companies as being the witnesses and those companies being represented by the individuals identified by name. For example, **Witness:** Sol Petroleum Cayman Ltd., represented by Mr. Pierre Magnan.

The Minutes were then **approved** on a motion moved by Hon. Conolly and seconded by Mr. Harris.

ii. Thursday, 23rd July 2020 (Hearing)

The Minutes were amended to reflect Ms. Angela Cullen's new job title; namely, Deputy Auditor General (Performance Audit).

The Minutes were then **approved** on a motion moved by Hon. Conolly and seconded by Mr. Harris.

iii. Friday, 24th July 2020 (Hearing)

The Minutes were amended to reflect Ms. Angela Cullen's new job title; namely, Deputy Auditor General (Performance Audit).

The Minutes were then **approved** on a motion moved by Hon. Conolly and seconded by Mr. Harris.

iv. Tuesday, 4th August 2020 (Administrative Meeting)

The Minutes were amended to reflect Ms. Angela Cullen's new job title; namely, Deputy Auditor General (Performance Audit).

The Minutes were then **approved** on a motion moved by Hon. Conolly and seconded by Mr. Harris.

4. **Matters arising from Minutes**

None.

5. **Approval of Auditor General's Invoices**

- i. Invoice number 207415 dated 31st July 2020 in the amount of \$52,377.52 was unanimously approved on a motion moved by Mr. Harris and seconded by Mr. Wight.
- ii. Invoice number 207418 dated 8th September 2020 in the amount of \$38,925.02 was unanimously approved on a motion moved by Mr. Wight and seconded by Mr. Harris.

The Chairman acknowledged the Committee's approval by returning signed copies of Invoice no. 207415 and 207418 to the Auditor General.

6. **Auditor General's Update**

- *ORLA Update and Schedule Hearings*

The Deputy Auditor General, Ms. Cullen, advised the Committee that the Office of the Auditor General (OAG) was not yet in receipt of a final account of the cost of the airport expansion. Ms. Cullen said that it was her understanding that CIAA had received a draft and the final account should be signed off fairly soon and the OAG would be informed immediately thereafter. She also understood that there was little likelihood of litigation now as the parties appeared to be close to an agreement.

The Chairman proposed that once the OAG receives the final account then Ms. Cullen could prepare an addendum to the report to reflect the updated figures. On presentation of this

addendum to the Committee, the Chairman would call for a meeting of the Members to review, consider and discuss the final account. Thereafter the Committee would be in a position to schedule public hearings, perhaps for November 2020.

7. Consideration of the OAG Reports and August Witness Sessions

- *PAC Annual Report 2017- 2018*
- *PAC Annual Report 2018 – 2019*

The Chairman advised the Members that there had been some confusion as to whether or not the PAC Annual Reports for 2017- 2018 and 2018 – 2019 had been laid on the table. For the avoidance of doubt the Chairman proposed that the Clerk prepare and the Committee finalize three Annual Reports for tabling at the next meeting of the House which was anticipated to take place in the first week of October. The dates of these three Annual Reports should mirror that of the House, as follows:

- i. May 2017 – August 2018
- ii. September 2018 – August 2019
- iii. September 2019 – August 2020

These three Annual Reports could be circulated and signed off on by round robin, if necessary, so as to be ready for tabling at the next meeting of the House.

A final PAC Annual Report should then cover the period from September 2020 - January 2021 for tabling in the House before the Legislative Assembly dissolves in March, in anticipation of the general elections in May 2021.

- *PAC Report on OfReg – Discuss potential recommendations*

The Chairman proposed and the Members agreed that section **4. Meetings of the Committee** be amended to refer to the Hearings on the 15th, 16th, 22nd, 23rd and 24th July, together with the Administrative Meetings on 23rd July and 9th September 2020 (ie 7 meetings in total).

The Chairman proposed and the Members agreed that section **7. Witnesses Called Before the Committee** be amended in the same way the Minutes were amended so as to refer to the companies as being the witnesses and those companies being represented by the individuals identified by name.

The Chairman advised that he had inserted some broad recommendations in section **9 PAC Recommendations** so as to provide a starting suggestion for Members' discussions.

The Members approved of the Chairman's proposed Recommendation **9.01**.

The Auditor General suggested that Recommendation **9.02** read like a policy recommendation and that the Committee may want to consider rewording this.

For Recommendation **9.03** the Auditor General suggested that it could be improved by providing some clarity and specifics.

Discussion ensued as to how to address the delays in decision making and whether the legislation should be amended to add time frames. Ms. Cullen said that in her opinion it was not the legislation that created the delays, it was more the process. The Auditor General suggested that perhaps the operating arrangements needed clarification, particularly the role of the executive verses the non-executive.

Recommendation 9.04 was briefly discussed.

The Chairman proposed additional Recommendations be added to address the following issues, amongst others:

- the fuel companies seemingly operating outside of their licensing restrictions;
- the quality of the fuel being sold along with proper monitoring of additives;
- specific recommendations to add better enforcement tools to the ICT regulators; and
- CUC sharing pole space and Flow sharing its existing infrastructure.

The Chairman proposed and the Members agreed to allow the Chairman, the Auditor General, Deputy Auditor General and the Clerk to meet to finalize the wording of the recommendations which would be circulated amongst the Members for consideration and agreement by round robin thereafter.

- *Invitation to CPA UK Westminster Workshop on Public Financial Oversight*

The Clerk advised the Members that the registration deadline was Tuesday 15th September, with the workshop scheduled to take place from 19th – 23rd October 2020.

The Chairman proposed and the Members agreed to nominate Mr. Wight to attend the workshop, virtually, from the Legislative Assembly Committee Room. Mr. Wight accepted the nomination.

The Chairman further proposed that the Clerk also attend; however, he thought that an additional Zoom link may be necessary to accommodate possible break-out sessions.

8. Any Other Business

- i. The Chairman informed the Committee that Mrs. Patricia Priestley was now the Clerk to the PAC and Miss. Manesa Webb would continue to provide administrative support.
- ii. Mr. Harris acknowledged receipt of the unedited Hansards for the 15th and 16th July OfReg Hearings but inquired as to the availability of the Hansards for the 22nd, 23rd and 24th July. The Chairman advised that these Hansards had been requested as a matter of urgency and should be made available to the Members next week.
- iii. On 15th July Dr. the Hon. Linford Pierson appeared as a witness before the Committee in his capacity as Chairman of the Board of Directors of OfReg. A portion of Dr. Pierson's testimony was found to be inaccurate. On 22nd July at the PAC meeting/hearing the Chairman invited a motion to remove Dr. Pierson's inaccurate testimony from the

record. The Committee agreed to a redaction of the portion of Dr. Pierson's testimony which had been found to be inaccurate from the Hansard.

Mr. Harris queried whether the Committee's decision to redact Dr. Pierson's testimony was the most effective way to handle the matter or whether there was an alternative way for the PAC to deal with Dr. Pierson's inaccurate testimony and report on it. Discussion ensued on how the Committee should best deal with this matter.

The Chairman proposed that he meet with the Auditor General, Deputy Auditor General and the Clerk to review the Hansards and work on the physical redaction of Dr. Pierson's statements. The Chairman proposed a meeting be scheduled for Wednesday, 16th September at 10:30 am with an email to follow, to the Members, with the specifics of the redaction. The Committee Members agreed to the Chairman's proposal.

9. Scheduling of Next Meeting

The Chairman scheduled the next administrative meeting to take place at 10:00 am, Wednesday, 30th September 2020.

10. Adjournment

There being no further business, the Chair adjourned the meeting at 11:25 am.



Legislative Assembly of the Cayman Islands

PUBLIC ACCOUNTS COMMITTEE

MINUTES

Meeting held

Wednesday, 7th October 2020 at 11:00 am

PAC Members Present:

Mr. D. Ezzard Miller, MLA - Chairman
Hon. Barbara E. Conolly, MLA - Member
Mr. Austin O. Harris, Jr., MLA - Member
Mr. David C. Wight, MLA - Member

PAC Members Absent:

Mr. Christopher S. Saunders, MLA - Member
Mr. Bernie A. Bush, MLA - Member

PAC Clerk: Mrs. Patricia Priestley

Attendees: Ms. Angela Cullen - Deputy Auditor General (Performance Audit)
Via Zoom: Mrs. Sue Winspear - Auditor General

1. Meeting to Order

There being a quorum present, the Chair called the meeting to order at 11:45 am.

2. Apologies

None.

3. Approval of PAC Minutes

Wednesday, 9th September 2020 (*Administrative Meeting*)

The Minutes were reviewed, discussed and thereafter unanimously **approved** on a motion moved by Mr. Austin Harris and seconded by Hon. Barbara Conolly.

4. **Matters arising from Minutes**

There were no matters arising.

5. **Approval of Auditor General's Invoice**

Invoice no. 207420 dated 30th September 2020 - \$57,355.02 was unanimously **approved** on a motion moved by Hon. Barbara Conolly and seconded by Mr. David Wight.

The Chairman acknowledged the Committee's approval by returning a signed copy of Invoice no. 207420 to the Auditor General.

6. **Auditor General's Update**

- *ORLA Update and Schedule Hearings*

The Deputy Auditor General, Ms. Angela Cullen, advised the Committee that the Office of the Auditor General (OAG) was still not in receipt of a final account of the cost of the airport expansion. Ms. Cullen further advised that the cost was not anticipated to change; however, some discrepancies in the details in the final account were intended to be corrected.

The Chairman proposed and the Committee agreed that the matter be deferred for a further update at the next administrative meeting.

- *OAG's Annual Report and Financial Statements for 2019*

The Chairman referred to the *Office of the Auditor General's Annual Report and Financial Statements for 2019*. The Chairman advised the Committee that this document had been submitted to Members of the Legislative Assembly some time ago but had not as yet been tabled. The Committee considered the document for tabling.

Mr. Austin Harris moved a motion to **approve** the *OAG's Annual Report and Financial Statements for 2019* for tabling in the house. The motion was seconded by Hon. Barbara Conolly.

The Committee unanimously agreed to table the *OAG's Annual Report and Financial Statements for 2019* at the next sitting of the Legislative Assembly.

7. **Consideration of the PAC Reports**

- *PAC Report on OfReg*

At the last Administrative Meeting on 9th September it was agreed that the Chairman, the Auditor General, the Deputy Auditor General and the Committee Clerk meet on 16th September to review the verbatim transcript for 15th July and work on a physical redaction of Dr. Linford Pierson's inaccurate testimony.

The Chairman explained to the Committee that at the aforementioned meeting, following discussion and on the advice of the Clerk, it was agreed that the best course of action would be for the PAC to not redact a portion of the testimony of the Chairman of OfReg from the transcripts, but instead to highlight the Committee's concerns by addressing this issue in the PAC Report. The Chairman acknowledged that this was not the course of action which had been previously agreed upon by the Committee; however, he asked the Committee to consider the insertion to paragraph 8 on page 6 of the Report which he felt dealt with the matter appropriately.

The *PAC Report on OfReg* was reviewed and discussed by the Members with particular attention given to the PAC's recommendations included in paragraph 9.

Mr. Austin Harris moved a motion to **approve** the *PAC Report on OfReg* for tabling in the house. The motion was seconded by Hon. Barbara Conolly.

The Committee unanimously agreed to table the *PAC Report on OfReg* at the next sitting of the Legislative Assembly.

- *PAC Annual Report 2017 - 2018*
- *PAC Annual Report 2018 - 2019*
- *PAC Annual Report 2019 - 2020*

The PAC Annual Reports 2017-2018, 2018-2019 and 2019-2020 were reviewed, discussed and thereafter unanimously **approved** on a motion moved by Hon. Barbara Conolly and seconded by Mr. David Wight.

The Committee unanimously agreed to table the PAC Annual Reports 2017-2018, 2018-2019 and 2019-2020 at the next sitting of the Legislative Assembly.

8. **Any Other Business**

The Chairman advised the Committee that he and the Committee Clerk had begun working on a handbook for PAC members together with a manual for PAC clerks.

9. **Scheduling of Next Meeting**

The Chairman proposed that the next administrative meeting take place following the upcoming meeting of the house. Date to be decided.

10. **Adjournment**

There being no further business, the Chairman adjourned the meeting at 12:00 noon.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

Round Robin

14th October 2020

We, the Members of the Standing Public Accounts Committee, hereby approve the following Minutes of the Standing Public Accounts Committee and agree that they be tabled in the House during the first Meeting of the 2020-2021 Session of the Legislative Assembly.

Minutes

- Wednesday, 7th October 2020

Handwritten signature of Mr. D. Ezzard Miller in blue ink.

Mr. D. Ezzard Miller, MLA
Chairman

Handwritten signature of Mr. Christopher S. Saunders in blue ink.

Mr. Christopher S. Saunders, MLA
Member

Handwritten signature of Mr. Austin O. Harris, Jr. in blue ink.

Mr. Austin O. Harris, Jr, MLA
Member

Handwritten signature of Mr. Bernie A. Bush in blue ink.

Mr. Bernie A. Bush, MLA
Member

Handwritten signature of Hon. Barbara E. Conolly in blue ink.

Hon. Barbara E. Conolly, MLA
Member

Handwritten signature of Mr. David Wight in blue ink.

Mr. David Wight, MLA
Member

