



BERMUDA

REGULATORY AUTHORITY (COVID-19) EMERGENCY GENERAL DETERMINATION 2020

BR 20 / 2020

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The Regulatory Authority (the “RA”), in exercise of the power conferred by sections 12, 13, 15, 66 and 84 of the Regulatory Authority Act 2011 (the “RAA”), section 10 of the Electronic Communications Act 2011 (the “ECA”) and section 6 of the Electricity Act 2016 (the “EA”), makes the following Emergency General Determination (“EGD”):

Citation

1 This EGD may be cited as the Regulatory Authority (COVID-19) Emergency General Determination 2020.

Interpretation

2 In this Emergency General Determination (EGD), unless the context otherwise requires, terms shall have the meaning given in the Regulatory Authority Act 2011 (RAA), the Electronic Communications Act 2011 (ECA), the Electricity Act 2016 (EA), the Interpretation Act 1951 and—

“COL” means a holder of a Communications Operating Licence;

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“Consumer” means an End User of a regulated industry sector as defined in the RAA that is either—

- (a) a residential consumer; or
- (b) a Small Business;

“ICOL” means a holder of an Integrated Communications Operating Licence;

“Relevant Person” means a Consumer or Small Business that demonstrates a recent loss of employment or significant income which affects their ability to pay for services due to the COVID-19 pandemic without offsetting (full or partial) Government or other agency support;

“Small Business” means a Bermudian-owned and Bermudian owner-operated business enterprise with either—

- (a) a maximum of ten (10) full-time employees; or
- (b) gross annual sales of less than \$1,000,000 (one million dollars); or
- (c) an annual payroll of less than \$500,000 (five hundred thousand dollars), as evidenced by the most recent quarterly payroll tax filing.

Application

3 This EGD applies to the Electronic Communications and Electricity sectors and is binding on all sectoral licensees.

Urgency and purpose of the Emergency General Determination

4 (1) The Regulatory Authority (RA) is concerned about the detrimental effects of the economic impact of the COVID-19 pandemic, in particular on the Consumers and Small Businesses of Bermuda and considers the prevention of widespread loss of electronic communications and electricity services to be urgent and in the public interest.

(2) This EGD provides for the prohibition of—

- (a) disruption, disconnection or discontinuance of services for non-payment by a Relevant Person; or
- (b) charging of penalties or other fees for non-payment to a Relevant Person. For the avoidance of doubt, this EGD does not apply to penalties for breach of handset or other device contracts associated with switching service providers; or
- (c) increasing tariffs to Consumers and Small Businesses,

during the period of the COVID-19 pandemic applicable to Bermuda as determined by the RA, the Bermuda Government or the Governor of Bermuda from the Effective Date of this EGD subject to section 66 (6) of the RAA (the “Period”).

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Determination

5 (1) The RA hereby determines that this EGD will extend to Consumers and Small Businesses during the Period with respect to the prohibition of—

(a) the disruption, disconnection or discontinuance of services per paragraph 4(2)(a); and

(b) the application of fees per paragraph 4(2)(b).

(2) Relevant Persons using premium services may be downgraded to standard services.

(3) Any changes to tariffs without the prior written approval of the RA will be prohibited and, pursuant to RAA 66(6), this prohibition may be extended for an additional six (6) months with approval from the Minister.

(4) Exemption from subparagraph (1)(a) above is provided for reasons of—

(a) safety to persons or property; or

(b) legitimate technical issues (foreseen or unforeseen).

(5) In the event the exemption is employed, the RA must be notified as soon as practically possible and failure to notify will be considered a breach of the provisions of this EGD.

(6) If after 30 days, the conditions of this EGD threatens the solvency of a sectoral licensee, the sectoral licensee may apply with evidence to the RA for relief from all or part of the provisions of paragraph 4 or this paragraph.

(7) Any timeframes for advance notice specified in Section 16.1 of a COL licence and 18.1 of an ICOL licence must not commence until after the duration of this EGD.

Terms and conditions of Emergency General Determination

6 (1) Any further determinations, including the duration of the EGD, made pursuant to this EGD will be issued by Order as necessary.

(2) Pursuant to 66(5)(b) of the RAA, within 14 days after the day on which the RA makes this EGD, or any longer period approved by the Minister responsible for the regulated industry sector, the RA will commence a public consultation.

(3) This EGD will be published on the Government's Official Gazette and on the RA's website (www.ra.bm). Electronic copies may be requested by emailing the RA at info@ra.bm.

Effective date of Emergency General Determination

7 This Emergency General Determination shall become effective on the day it is published in the Gazette.

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Signed this 23rd day of March 2020

Chairman, Regulatory Authority

[Operative Date: 24 March 2020]