



Public Consultation

Proposed Work Plan and Budget

REGULATORY AUTHORITY

WORK PLAN

2022-23 FISCAL YEAR

Consultation Document

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TABLE OF CONTENTS

REGULATORY AUTHORITYWORK PLAN	1
TABLE OF CONTENTS	2
1. EXECUTIVE SUMMARY	3
2. STRUCTURE OF WORK PLAN DOCUMENT	9
3. CONSULTATION PROCEDURE	10
4. PROPOSED BUDGETS AND FEES	12
5. LEGISLATIVE CONTEXT	15
6. BASIS, ROLES AND RESPONSIBILITIES OF THE RA	16
7. OPERATIONAL FUNCTIONS	18
8. PROPOSED BUDGET AND PROJECTED REVENUES	24
9. SERVICE FEES	30
TABLE 4	30
APPENDIX A – BUDGET BREAKDOWN BY SECTOR	31
APPENDIX B – DESKTOP WIND STUDY RESULTS	34
APPENDIX C – UTILITY-SCALE SOLAR RESOURCE ASSESSMENT	35
APPENDIX D – FUEL TAXATION	36

1. EXECUTIVE SUMMARY

1.1 Introduction

The purpose of this proposed 2022-23 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 2022 through 31, March 2023, and includes a corresponding proposed budget. All figures within this document are denominated in Bermuda Dollars.

The projected year-on-year decrease in revenues for the fiscal year 2022-23 is 2%. The decrease is largely attributed to a further reduction in the Regulatory Authority fee, relating to Integrated Communications Operating Licences (“ICOLs”), **from 1.70% to 1.65%**.

In the Electricity Sector, the primary activities continue to be to drive next steps for the island’s Integrated Resource Plan (“IRP”) implementation and to continue progress towards **85% renewable energy by 2035**. The desktop study of the wind pre-feasibility has been successfully completed and the RA will continue with the next stage which is launching a meteorological wind resource measurement study. Further, the RA completed the initial site assessments for the bulk generation solar procurement and will work closely with the Government to realise the development of several of these sites. The process of setting the retail tariff will enter the second phase.

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. The primary focus is to support competitiveness in the various markets.

The RA intends to propose 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 1.65%**.
- b) The General Regulatory Authority 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 remain at \$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 remain** at \$6,500 per MegaWatt.

d) The Electronic Communications Regulatory Authority Fee, relating to Submarine Communications Operating Licences (“SubCOLs”), **to remain** at 1%.

In addition, the RA proposes that the Minister of Home Affairs makes a regulation to establish the recommended service fees in accordance with Section 8 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.

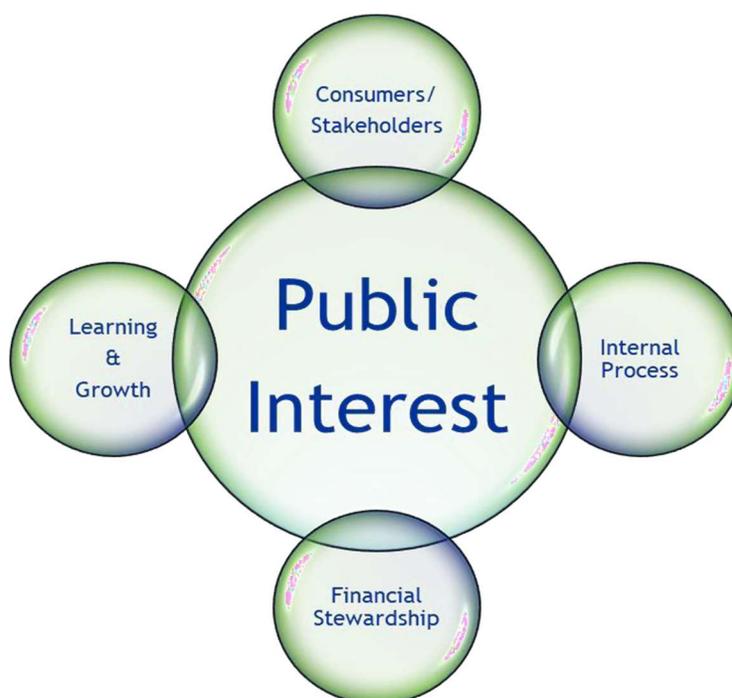
Based on the rationale stated above, the RA also proposes to recommend to the Minister of Home Affairs that there should be a **reduction** in the current level of Government Authorization Fees imposed on the Electronic Communications sector under the Government Fees Act 1965 to **3.45%**.

The RA intends to request that the Minister of Finance approve the RA’s proposed budget of

\$6,651,000 for total revenues (a decrease of 2%) and of total expenditure of \$6,593,390 (a decrease of 3%) for the fiscal year 2022-23. It proposes to request that the Minister of Home Affairs make regulations 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 gradual reduction in the reliance on external advisors/consultants and a decrease in regulatory costs per sector. The RA has been increasingly successful in lowering its reliance on external resources.

1.3 Fiscal Year 2021-2022 Major Activities:

Examples of some of the key activities undertaken by the RA in the fiscal year 2021-2022, in both the electronic communications, electricity and submarine communications cables sectors include the following:

Electricity Sector:

- **Bulk Solar Feasibility** – commenced the feasibility study and subsequent acquisition for further Solar Bulk Generation Renewable Energy which would aid in meeting the solar bulk generation targets set in the Integrated Resource Plan (“IRP”);
- **Retail Tariff Review** - designed to identify and assess all costs associated with the generation, transmission, distribution and retailing of electricity by BELCO which will be set in the new customer electricity rates. The review included an assessment of utility capital investment plans, a review and monitoring of capital construction projects, and a review of the regulated utility asset registry. An efficiency and performance benchmarking study will be conducted by end of the fiscal year. This was the third review conducted by the RA;
- **Bulk Generation Proposals and Licence Evaluation** – evaluated unsolicited Bulk Generation proposals which were submitted in accordance with the Bulk Generation Procurement Rules and the IRP;
- **Wind Feasibility Study Phase 1** – completed the desktop feasibility study for large scale wind developments. The first phase of the wind study involved the environmental, technical and financial assessments around Bermuda. The study also included a procurement roadmap for developing wind resources in Bermuda, site/location screening, foundation and wind turbine technology reviews and yield and economic assessments. Please see Appendix B for a summary of the report; and
- **IRP Proposal Preparation** – engaged the public for comments on the RA’s IRP guidance document which detailed types of generation and fuels to be used in the

production of the new IRP. This new IRP will update Bermuda's first IRP, which provided a roadmap to meet forecasted energy demand using both supply and demand-side resources. The new IRP will update the current electricity roadmap with information from the Bulk Solar Feasibility Study and the Wind Study and new resources.

Electronic Communications Sector:

- **Licensing** – as part of the ongoing desire for sustainable competition in the Electronic Communications Sector, the RA continues to monitor the progress of the new ICOL holders and the new Submarine Communication Licence (“SubCOL”) Holder which were awarded in late 2020. No new licences were issued in 2021-22.
- **Significant Market Power Remedy Implementation** – implemented new rules to enable fair, reasonable and non-discriminatory access to the wholesale networks of the dominant carriers such as accounting separation, cost-oriented pricing, information provision and key performance indicators;
- **Spectrum Assignment** – a process for the licensing, permitting and exemption of spectrum assignment was developed and implemented in late 2020. This new process allowed the assignment of spectrum to various ICOLs, including new licensees. Since the implementation of the new process, a significant number of new licence applications have been received and completed;
- **Radiofrequency & 5G Safety** – the RA conducted a public consultation on Radiofrequency (“RF”) and 5G Safety. The outcome resulted in the lifting of the Temporary Moratorium on 5G Implementation, which was put in place earlier in 2020, as well as specifying the rules by which wireless networks may be implemented in the future. Further, an RF survey was carried out across the island providing a benchmark of current RF exposure, which found no evidence of any significant emissions that were more than a small fraction of the safety standards set by the International Commission on Non-Ionizing Radiation Protection and the Institute of Electrical and Electronic Engineers;
- **Sectoral review** – the RA proposes to request that the Minister agree to an extension of the time frame for commencing the next review of the electronic communications sector pursuant to section 17 of the RAA, such that it falls within the upcoming fiscal year. The RA believes that an extension would be prudent to allow more time to consider the impact

of the significant market remedies within the broader context of the electronic communications sector.

Submarine Communications Cables Sector:

- **A new licensing regime** – following the establishment of the Submarine Communications Cables Act 2020, the RA issued new permitting and licensing regulations which streamline the process for the development of new submarine cable systems to Bermuda. The RA and the Bermuda Business Development Agency also engaged with the International Cable Protection Committee at its Annual Plenary to advise the international community of Bermuda’s enhanced process for permitting and licensing.

2. STRUCTURE OF WORK PLAN DOCUMENT

Building on the accomplishments of the previous fiscal year, this document sets out the RA's Work Plan for the period April 1, 2022, to March 31, 2023. 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 which 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. CONSULTATION PROCEDURE

This consultation is being undertaken in accordance with sections 4, 5, 7, 9 and 69 to 73 of the Regulatory Authority Act 2011 ("RAA") and sections 5, 32, 33 and 34 of the Electronic Communications Act 2011 ("ECA"). The procedure and accompanying timelines (as set out in section 72 of the RAA), under which this consultation is taking place, are outlined below.

Section 43(2) of the RAA requires the RA to conduct a public consultation regarding its Work Plan for the fiscal year 2022-2023 (April 1, 2022 through March 31, 2023), including its proposed income and expenditure budget.

Section 43(2) of the RAA requires that the Work Plan include the following:

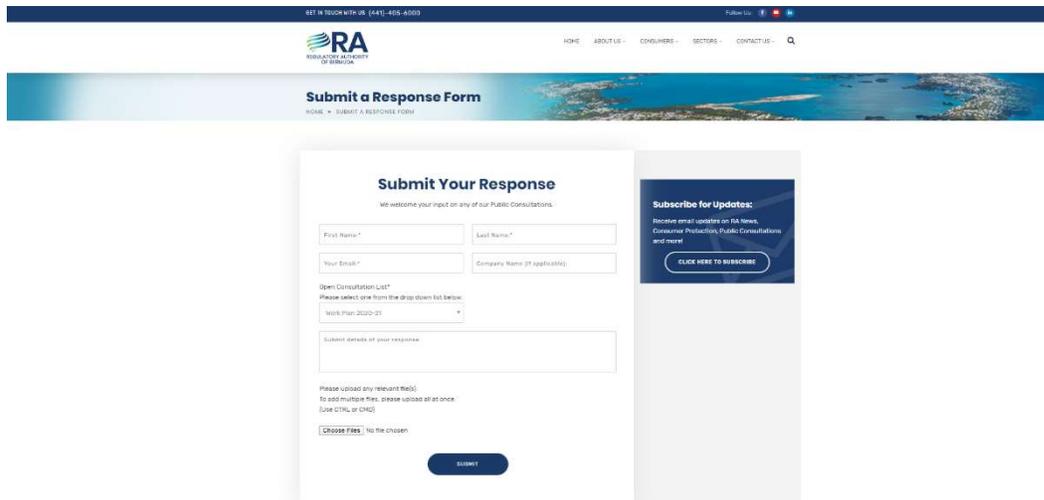
- (a) the RA's strategic objectives;
- (b) any major activities, such as public consultations, that the RA anticipates undertaking during the upcoming financial year;
- (c) any quantitative indicators that the RA has adopted to measure its performance during the upcoming financial year; and
- (d) a preliminary estimate of the RA's budget for the upcoming financial year.

Consistent with practice relating to any other consultation, the RA prepares and publishes in draft, an initial copy of the Work Plan and the proposed budget for the public consultation and invites comments from the public and various stakeholders groups on its content. The document is subsequently published on the RA's website (www.ra.bm).

The RA then gives due consideration to any comments submitted and decides whether or not to make revisions to the Work Plan as a result. This then leads to a Preliminary Report, which sets out the proposed Work Plan and proposed budget. Section 43(3) of the RAA requires the Preliminary Report to be submitted to all Ministers responsible for regulated sectors and the Minister of Finance, no later than three months before the commencement of the relevant fiscal year. At present, the Minister of Home Affairs is responsible for all regulated sectors.

The RA invites comments from members of the public, electronic communications and electricity sectoral participants and providers, and other interested parties. The RA requests that commenting parties, in their responses, reference the numbers of the relevant questions, as set forth in this Consultation Document, to which they are responding.

Responses to this Consultation Document should be filed electronically in MS Word or Adobe Acrobat format. Parties wishing to file comments should go to the RA's website www.ra.bm and follow this link:



Sectors page for Public Consultations <https://www.ra.bm/public-consultations/>

All comments should be clearly marked "2021 09 30 – Work Plan and Budget 2022-2023 " and should otherwise comply with Rules 18 and 30 of the RA's Interim Administrative Rules, which are posted on the RA's website.

The RA intends to make responses to this Consultation Document available on its website. If a commenting party's response contains any information that is confidential in nature, a clearly marked "Non-Confidential Version", redacted to delete the confidential information, should be provided together with a complete version that is clearly marked as the "Confidential Version". Redactions should be strictly limited to "confidential information", meaning a trade secret, information whose commercial value would be diminished or destroyed by public disclosure, information whose disclosure would have an adverse effect on the commercial interests of the commenting party, or information that is legally subject to confidential treatment. The "Confidential Version" should highlight the information that has been redacted. Any person claiming confidentiality in respect of the information submitted must provide a full justification for the claim. Requests for confidentiality will be treated in the manner provided for in Rule 30 of the RA's Interim Administrative Rules.

In accordance with section 73 of the RAA, any interested person may make an *ex parte* communication during this consultation process, subject to the requirements set forth in paragraph 13.

An *ex parte* communication is defined as any communication to a Commissioner or member of staff of the RA regarding the matter being consulted on in this Consultation Document, other than a written submission made pursuant to section 73(2) of the RAA. Within two (2) business days after making an *ex parte* communication, the person who made the *ex parte* communication shall submit the following to the RA: (i) a written description of the issues discussed and positions espoused; and (ii) a copy of any written

materials provided. This will be posted on the RA's website, along with a notice of the ex parte communication.

The principal point of contact at the Authority for interested persons for this Consultation Document is Denton Williams. **Consultation responses are due by 11:59 p.m. on 31 October 2021.** Mr. Williams may be contacted by email, referencing "Proposed Work Plan and Budget 2022-23" at consultation@ra.bm or by mail at:

Denton Williams
Matter: 2021 09 30 – Work Plan and Budget 2022-2023
Regulatory Authority
1st Floor, Craig Appin House
8 Wesley Street
Hamilton, Bermuda

In this Consultation Document, except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them by the ECA, the RAA and the Interpretation Act 1951.

4. 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:

4.1 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 Authority 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 \$6,593,390 which consists of an Operating Expenditure of \$6,579,390 and a Capital Expenditure of \$14,000.

4.2 Electronic Communications

The RA proposes a decrease to the Expenditure Budget for the Electronic Communications

sector for the fiscal year 2022-23. Specifically, an Expenditure Budget of \$3,084,195 is proposed, which is a decrease of \$190,505 (6%), when compared to the 2021-22 Approved Budget. The RA recommends that the Electronic Communications Regulatory Authority Fee for ICOL holders is reduced to 1.65%, which will be applied to the ICOL's Relevant Turnover and that the Electronic Communications Regulatory Authority Fee for SubCOL holders remain at 1%, which will be applied to the SubCOL's Relevant Turnover.

4.3 Electricity

The RA proposes revenue of \$3,521,000 which is below the approved budget for the fiscal year 2021-22 by \$10,000 (0.3%). The following are the fees used to support the Electricity Expenditure Budget for 2022-23:

- i. Electricity TD&R service provider – **remain at \$0.00635** per kilowatt-hour sold to finance phase 2 of the Wind studies project.
- ii. Utility-Scale Electricity Generation provider (greater than 25 MegaWatts of installed electricity generation capacity) - **no proposed change;**
- iii. Fossil Fuel Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) - **no proposed change;**
- 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 change;**
- v. Renewable Energy Bulk Electricity Generation provider (greater than 0.5 MegaWatts but less than 25 MegaWatts of installed electricity generation capacity) – **no proposed change; and**
- vi. Self-Supply Generation License provider (greater than 0.5 MegaWatts of installed electricity generation capacity) – **no proposed change .**

4.4 Proposals to the Minister of Home Affairs:

As a result of the preceding information, the RA intends to propose the following to the Minister of Home Affairs:

- That there should be **a decrease in the Electronic Communications RA Fee to 1.65%**, relating to the general regulatory fees;
- That there should be **no change in the General Regulatory Authority Fees** under paragraph 1 of the schedule per the Electricity (Regulatory Authority Fees) Regulations

2021, payable by the TD&R Service Provider;

- That there should be **no change**, in accordance with section 7.2 of this document in the General Regulatory Authority Fees under paragraphs 2 to 6 of the schedule to the Electricity (Regulatory Authority Fees) Regulations 2021, **payable by the Bulk Electricity Generation Providers**;
- That the Service Fees should be set per section 8; and
- That there should be **a reduction in the current level of Government Authorization Fees payable by the Electronic Communications to 3.45%** under the regulations.

5. 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.

6. BASIS, ROLES AND RESPONSIBILITIES OF THE RA

6.1 Statutory basis of the RA and funding

As the RA is 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;
- 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; and
- v. fees levied on applicants pursuant to the SCCA.

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.

The RA will require marginal funding for addition regulated sectors as assigned by the Government.

6.2 The role of the RA's Board of Commissioners

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, EA and SCCA. 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.

6.3 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 IRP was developed ahead of schedule with the input of external advisors. Also, Feed-in-Tariff reviews are primarily 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 sectoral 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.

6.4 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 expects that with these improved efficiencies, the timeline to integrate new regulated sectors can be significantly reduced, and thereby allow the RA more time to devote to the development of any technical expertise that may be required. For example, in 2020, the RA was able to leverage both internal and external resources to augment the creation of the governing documentation for the Submarine Communications Cables Sector. The Submarine Communications Cable Act 2020 was passed in early 2021. 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. The RA subsequently created permitting and licensing regulations.

Further, the RA anticipates commencing the regulation of the Fuel sector subject to legislative approval. This will include public consultations, the establishment of the licensing regime and the development of the fuel pricing methodologies.

The RA also notes the increase in satellite regulatory matters directed at and involving Bermuda. Should the need arise for substantive involvement of the RA in such matters, including formal regulatory responsibility.

The RA will discuss the appropriate funding models with the Government, including grants or other financing vehicles, for new regulated sectors.

7. OPERATIONAL FUNCTIONS

7.1 Fee collection

During the fiscal year 2022-23, the RA anticipates collecting Government revenues of approximately \$17,016,000 and \$180,301 from the Electronic Communications and Electricity sectors, respectively. These figures have been calculated based on the estimated impact of COVID-19 in the fiscal year 2021-22, and has been adjusted for the projected GDP growth of 2.2% in the fiscal year 2022-2023, based on the historical trend of the International Monetary Fund (“IMF”) World Economic Outlook projections for advanced economies.

7.2 Budget

The RA has set its proposed Expenditure Budget for 2022-23 at \$6,593,390. This is on the basis that the RA plans to undertake Electricity, Electronic Communications and Submarine Communications Cable related projects and operational activities. Any further regulatory activities would be commensurate with additional funding from the Government of Bermuda or the related sector.

7.3 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 December 20, 2021. The RA intends to roll forward this line of credit for at least another 2 years after expiry.

7.4 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 for increased educational information, the RA has increased its resources to create original content to help the public to better understand consumer impacting information regarding the Electronic Communications sector, renewable energy, traditional resources, energy efficiency and conservation in the electricity sector and consumer rights overall.

7.5 Communications and Consumer Protection

Throughout the global pandemic, communication initiatives shifted dramatically for individuals and for businesses and will likely continue to rapidly evolve in response to the audiences’ changing and rising expectations. As a result, in FY2022-23, the RA will implement the following communication initiatives:

1. **Audience Centric Communications-** to ensure the stakeholder communication experience is optimal, the RA message and communication channels will be oriented to the self-identified needs of the targeted audience, as opposed to the organisation.
2. **Digital and Open:** The RA is adopting best practices informed by ground-breaking strategic communications planning conducted by the UK Government. A core principle of the UK Governments' 'Digital and Open by Default' model includes:
 - **'Digital by Default'**, which is, designing communication tactics and approaches with the RA's website as the main hub for external communication.
 - **'Open by Default'**, refers to information being made publicly available in the interest of transparency and accessibility, which may include an increase in graphic and video content across all communication platforms, both internally and externally.

7.6 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 2022-23, 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.

7.7 Electricity

The 2022-23 work streams are primarily project-oriented, with a high degree of focus on the development of the IRP and future ratemaking processes. The projects include:

- i. **Bulk Generation Proposals and Licence Evaluation**

The RA will continue to accept and evaluate Unsolicited Bulk Generation Proposals

(“Proposals”) that are submitted in accordance with the Bulk Generation Procurement Rules and the IRP. With the successful Proposals being invited to submit a Bulk Generation Licence Application in accordance with the Application Process for Electricity Licences General Determination, the RA will then evaluate the applications in accordance with the same and grant licences in accordance with the EA.

ii. **Retail Tariff Methodology General Determination Review**

Having completed two retail tariff reviews utilising the Retail Tariff Methodology (the “Methodology”) set in 2018, the RA will engage in a public consultation to modify this Methodology in accordance with section 35 of the Electricity Act 2016 (“EA”). At the end of the consultation process the RA will issue a General Determination setting the new Methodology. The new Methodology is expected to benefit from lessons learned from the previous retail tariff reviews while maintaining elements of incentive regulation to promote economic efficiency in the provision of electricity services to the customers of Bermuda.

iii. **Retail Tariff Review - Phase Two**

The RA will continue its work on the first multi-year retail tariff review started in 2021. The multi-year review, having completed its first phase in establishing tariffs for 2022, will now continue with phase two of the review in developing and evaluating the impacts of new tariff design and options for new tariffs. The new tariffs under consideration include time-of-use tariffs, electric vehicle charging tariffs, low-income household and new business development tariffs.

iv. **IRP Development and Evaluation**

The RA initiated the first steps in the development of a new IRP by issuing the IRP Guidance document after issuing an invitation for public comment on the draft guidance in Q2 of 2021.

The RA also will request an IRP proposal from the TD&R Licensee which complies with the guidance document. This new IRP will update 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 utilising information from studies performed

in the prior workplan.

The RA will continue the IRP process by issuing public consultations of the IRP Proposal and any alternative proposals received. Additionally, during the IRP consultation phase, the RA will continue to consider proposals for promising bulk generation technologies that are near commercialisation through an Electricity Sandbox programme.

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 strategy, which will include development opportunities for the bulk generation market.

v. **Wind Pre-Feasibility Study**

The RA will move into phase two (2) of its 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 a meteorological wind study and an environmental and social impact assessment for constructing and operating an offshore wind farm. The optimal capacity for wind has been determined by the recently completed desktop study but may be modified by the results of the wind resource measurements. This project is considered an extraordinary project that will serve to meet a critical need of the Integrated Resource Plan.

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

7.8 Electronic Communications

In the fiscal year 2022-23, the RA will focus on monitoring the electronic communications sector and on enforcing the regulations that have been established. Some of the major work streams will include:

i. **National Connectivity Plan:**

The RA intends to commence development of a National Connectivity Plan in support of the purposes of the ECA. This National Connectivity Plan will incorporate recent and upcoming changes in the national networks and fold in aspirational forward-looking goals for the coming years ahead. Discussion topics may include (but not be limited to) the retirement of legacy copper networks, minimum broadband service speeds, quality of service standards, connectivity targets and infrastructure targets.

ii. **Spectrum Liberalization:**

Recognizing the fact that new technologies have blurred the lines between traditional spectrum licences, the RA intends to investigate whether any form of spectrum liberalization is appropriate for the Bermuda Market and determine what form of future licences may take. As part of this assessment, the RA will conduct an analysis of effective and efficient use of all the existing spectrum licences in preparation for the potential renewals of spectrum licenses in 2023-2024.

iii. **Significant Market Power (“SMP”) Remedy Implementation**

Following the setting of SMP Remedies via as part of the Market Review of the Electronic Communications Sector in fiscal year 2021-22, the RA will ensure that the remedies are effectively implemented. These remedies included obligations to offer broadband services on a standalone basis, Accounting Separation, Cost-oriented pricing, ongoing reporting requirements, and wholesale access on a fair, reasonable and non-discriminatory basis. The RA will continue to work with the sectoral providers that are obligated to comply with the SMP remedy obligations, to ensure adherence to the remedies. This will require periodic assessment of the remedies imposed.

iv. **Redevelopment of Spectrum Database Platform:**

The RA intends to redevelop the current database platform used to document Spectrum Licences, Radio Class licences and Type Approvals. Goals include providing a solution that is more end-user driven, web enabled and containing appropriate payment gateway

functionality. The solution will also enable timely automated renewal reminders for licence holders.

v. **Radiofrequency (“RF”) Study**

As part of the ongoing monitoring of spectrum in Bermuda, the RA will conduct an in-house RF Study in 2022 to better understand the levels of RF in use in Bermuda. This RF Study will build on the study carried out in March 2021, and capture the impacts of the new ICOLs’ RF systems. The results of this RF report will be made publicly available on the RA’s website.

vi. **Sectoral review**

The RA proposes to request that the Minister agree to an extension of the time frame for commencing the next review of the Electronic Communications sector pursuant to section 17 of the RAA such that it falls within the upcoming fiscal year. The RA believes that an extension is required to allow more time to consider the impact the of significant market remedies within the broader context of the electronic communications sector.

This project will take the form of a comprehensive review of the sector, including all policies, legislation, regulations and administrative determinations applicable to the sector. The review will be initiated by public consultation. No additional funding will be required for this project.

7.9 Submarine Communications Cables

With the addition of the Submarine Communications Cables Act 2020, the RA will continue to 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.

8. 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 2022-23.

8.1 Proposed Expenditure Budget for 2022-23

Subject to the approval of the Minister of Finance, the RA proposes to adopt a total expenditure budget of \$6,593,390 for the fiscal year 2022-23.

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 staff consists of twenty team members.

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 and recently has set new standards to protect the general public.

The RA also sets the Retail Tariffs including the Fuel Adjustment and the Feed-In Tariff, approves capital expenditures, licenses sectoral providers and ensures regulatory compliance in the Electricity sector. The RA manages the strategic electricity perspective via the IRP and supports the necessary steps to facilitate the strategic objectives of the IRP via activities like the wind studies (desktop result available in appendix B) and the bulk solar resource assessment (Appendix C).

General expenses are split equally between the Electronic Communications and Electricity sectors. Staff members who work solely in one sector have the totality of their payroll and benefits allocated to that specific sector. With the pending launch of fuel regulation, the RA expects that the

general expenses will be split between three sectors and the result synergy will reduce the cost on the Electronic Communications and Electricity sectors, once the legislation has been brought into force. The projected expenses for 2022-23 are set out in Table 1 below.

TABLE 1

	Electronic Comm	Electricity	Total Operations	Extra ordinary items	Total 2022-23	Total 2021-22
RA Fees ¹	3,130,000	3,521,000	6,651,000		6,651,000	6,746,000
Service fees	-	-	-	-	-	60,000
Total Revenue	3,130,000	3,521,000	6,651,000	-	6,651,000	6,806,000
Expenses						
Employees	1,789,000	1,841,000	3,630,000	-	3,630,000	3,394,410
Commissioners' expenses ³	240,795	240,795	481,590	-	481,590	486,590
Office Space	194,426	194,426	388,852	-	388,852	373,500
Office Services	166,574	166,574	333,148	-	333,148	267,500
Consulting Services	432,000	125,000	557,000	800,000 ²	1,357,000	1,620,000
Operating Costs	254,400	134,400	388,800	-	388,800	590,700
TOTAL OPERATING EXPENSES	3,077,195	2,702,195	5,779,390	800,000	6,579,390	6,732,700
Furniture & Fittings	1,500	1,500	3,000	-	3,000	5,000
Office Equipment	1,500	1,500	3,000	-	3,000	5,000
Computers & Software	3,000	3,000	6,000	-	6,000	5,000
Electronic Communications Equipment	-	-	-	-	-	51,000
Leasehold Improvements	1,000	1,000	2,000	-	2,000	2,000
TOTAL CAPITAL EXPENDITURE	7,000	7,000	14,000	-	14,000	68,000
TOTAL EXPENDITURE	3,084,195	2,709,195	5,793,390	800,000	6,593,390	6,800,700

Please refer to Appendix A for a detailed breakdown of the Electronic Communications and Electricity expenditure budgets for the fiscal year 2022-23, including prior year comparison.

¹ This may vary depending on the recovery from the unusual economic circumstances due to the Pandemic.

² This relates to the Wind Pre-feasibility studies which is deemed an exceptional project. The wind studies are projected to span two years and have a total value of ~\$1.3 M of which \$800k is the estimated budget for the second year (\$500k was for the initial fiscal year 2021-22).

³ Commissioner's expenses include their honoraria, payroll tax and budgeted training expenses.

8.2 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 centres. As previously mentioned, the RA recommends that the Electronic Communications Regulatory Authority Fee for ICOLs is reduced to 1.65%, 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 \$3,130,000 for the RA, based on the anticipated annual relevant turnover for 2022-23, and considering the projected impact of the Covid-19 Pandemic and the GDP growth outlook for FY 2022-23.

The RA believes the Work Plan for the fiscal year 2022-23 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 intends to recommend to the Minister of Home Affairs that **there should be a reduction in the current level of Government Authorization Fees to 3.45%** imposed on the Electronic Communications industry under the regulations. Therefore, the projected revenues for 2022-23 are set out in Table 2 below.

TABLE 2

	Regulatory Authority	Government
Electronic Communications	3,130,000	6,560,000
Spectrum Fees	-	2,441,000
Radio Communications Licences	-	415,000
Handset Fees	-	7,600,000
TOTAL	3,130,000	17,016,000

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 2022-23 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 the fiscal year 2022-23. 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 2020 by a dedicated charge to the end-user.

The RA intends to recommend 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 2020 for TD&R Service Provider.

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

The RA's estimated Bulk Electricity revenues for the fiscal year 2022-23 are based on the estimated planned installed power capacity during the fiscal year. The RA intends to recommend 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-vi) above, payable by the Bulk Electricity Generation Providers.

The RA also intends to recommend 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 2022-23 are set out below in Table 3.

TABLE 3

	Regulatory Authority	Government
Transmission, Distribution & Retail	3,351,900	106,000
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	3,521,000	180,301

Further, **the RA intends to recommend to the Ministers of Home Affairs and Finance that there be a reduction in fuel taxes/customs duties per Appendix D.**

8.3 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 honoraria, payroll taxes and training for the RA Commissioners.
- **Office Space:** This category includes the rent, service charge, taxes, utilities, and insurance associated with leasing a 7,762-square foot office 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.
- **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 2022-23 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.

9. 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 ⁴	\$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	\$0
- 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

⁴This 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 2022-23 is set out below in Table 5.

The RA's proposed Electronic Communications total expenditure budget for fiscal year 2022-23 decreased by \$190,505 (6%) 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 2022-23, when compared to the Approved Budget for 2021-22 are as follows:

- i. A decrease in operating costs by \$272,300 (52%) is largely due to the decrease in the provision for litigation.
- ii. A decrease in capital expenditure by \$52,500 (88%) which was due to the planned installation of the RF EMF Network monitoring system worth \$50,000 in the fiscal year 2021-22.

The above decreases were offset by the increases below:

- i. An increase in staff costs by \$119,295 (7%) is primarily due to the planned hiring of a Regulatory Engineer and the associated increase in the health insurance premium.
- ii. An increase in office service expenses by \$32,824 (25%) is primarily due to anticipated increase in computer equipment, maintenance, and IT support.
- iii. An increase in office space expenses by \$7,676 (4%) is primarily due to the increase in business insurance premiums and other budgeted government levies.

TABLE 5: Electronic Communications Budget Prior Year Comparison

	2022-23	2021-22	Increase/ (Decrease)
REVENUES	3,130,000	3,275,000	(145,000)
Staff	1,789,000	1,669,705	119,295
Commissioners' expenses	240,795	263,295	(22,500)
Office Space	194,426	186,750	7,676
Office Services	166,574	133,750	32,824
Consulting Services	432,000	435,000	(3,000)

Operating Costs	254,400	526,700	(272,300)
TOTAL OPERATING EXPENSES	3,077,195	3,215,200	(138,005)
TOTAL CAPITAL EXPENDITURE	7,000	59,500	(52,500)
TOTAL EXPENDITURE	3,084,195	3,274,700	(190,505)

ii. **Electricity**

To provide a prior year comparison for the Electricity Sector, the RA’s proposed Electricity Expenditure Budget for fiscal year 2022-23 is set out in Table 6 below. The RA’s proposed total Electricity Expenditure Budget for the fiscal year 2022-23 decreased by \$16,805 (1%) when compared to its approved expenditure budget for the fiscal year 2021-22. 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 2022-23 when compared to the approved budget for 2021-22 are as follows:

A decrease in consulting services by \$260,000 (22%) is offset by the increases below:

- i. An increase in staff costs by \$116,295 (7%) is primarily due to the planned hiring of the Regulatory Engineer and the associated increase in the health insurance premium.
- ii. An increase in operating expenses by \$70,400 (110%) primarily due to the planned training expenses.
- iii. An increase in office service expenses by \$32,824 (25%) is primarily due to anticipated increase in computer equipment, maintenance, and IT support and staff engagement activities.
- iv. An increase in office space expenses by \$7,676 (4%) is primarily due to the increase in business insurance premiums and other budgeted government levies.

TABLE 6: Electricity Budget Prior Year Comparison

	2022-23	Exception al items (Note 1)	2022-23	2021-22	Increase/ (Decrease)
RA Fees	3,521,000	-	3,471,000	3,471,000	50,000
Service fees	-	-	60,000	60,000	(60,000)

Total Revenue	3,521,000		3,531,000	3,531,000	(10,000)
Staff	1,841,000	-	1,841,000	1,724,705	116,295
Commissioners' expenses	240,795	-	240,795	223,295	17,500
Office Space	194,426	-	194,426	186,750	7,676
Office Services	166,574	-	166,574	133,750	32,824
Consulting Services	125,000	800,000 ¹	925,000	1,185,000	(260,000)
Operating Costs	134,400	-	134,400	64,000	70,400
TOTAL OPERATING EXPENSES	2,702,195	800,000	3,502,195	3,517,500	(15,305)
TOTAL CAPITAL EXPENDITURE	7,000	-	7,000	8,500	(1,500)
TOTAL EXPENDITURE	2,709,195	800,000	3,509,195	3,526,000	(16,805)

Note 1: This relates to the Wind Pre-feasibility studies which is deemed an exceptional project. The wind studies are projected to span two years and have a total value of ~\$1.3 M of which \$800k is the estimated budget for the second year (\$500k was for the initial fiscal year 2021-22).



Offshore Wind Development Scoping Study:
Public Presentation

September 2021

APPENDIX C – UTILITY-SCALE SOLAR RESOURCE ASSESSMENT



Bulk Generation PV
Procurement Sites



APPENDIX D – FUEL TAXATION

Bermuda's economic recovery under the ongoing COVID-19 pandemic requires as much stimulus as possible. Resetting fuel taxation levels would immediately have this effect for all the people of Bermuda.

Background

In 2015, following a temporary slump in global oil prices, the Bermuda Customs Duty was raised by 5 cents per litre. The equivalent price impact was a change from \$15.10 per barrel to \$23.05 per barrel – an increase of 52.65%.

In 2016, a further increase from \$23.05 per barrel to \$31.79 per barrel was implemented – a subsequent increase of 37.92%.

Over the course of those two years, electricity production fuel taxes increased by 110.53%.

The RA has reviewed the history of the tax changes and is very aware of their impacts on electricity prices. Beyond the pandemic's impact, global oil industry changes have emerged since 2015's first tax increase. Bermuda currently faces a major geopolitical shift, including a radically different US fossil fuel export policy. Increasing fuel costs are already bearing heavily upon local business and resident electricity costs. Volatility promises greater swings in fuel adjustment rates in future, increasing uncertainty in business and local living costs. Effective pricing of electricity is critical for the efficient operation of the economy, as affordable electricity is essential to the functioning of any modern economy. The RA affirms its role in doing its part. It has successfully completed two Retail Tariff Reviews which resulted in reduction in the electricity tariffs. It also commits to reviewing the utility's fuel purchasing practises, and the (now quarterly) fuel adjustment rate submission frequency, in line with more nimble decisions required to protect the delicate, local economy. However, as fuel taxes are not set by the RA, the fuel component is very high and largely composed of fixed costs, of which taxes are \$31.79 per barrel of fuel.

With respect to the ongoing COVID-19 global pandemic and the demonstrated devastating economic impact on the people of Bermuda, the RA believes that the current taxation of fuel for the production of electricity is unsustainable.

Recommendation

The Regulatory Authority of Bermuda (the “RA”) is proposing the consideration of the reduction of the current level of taxation of fuel for the production of electricity.

The RA recommends that the taxation of fuels for the production of Electricity be reduced to \$12.72 per barrel or 8 cents per litre – a 60% reduction from current levels. This will strongly stimulate the economy and make the economy operate more efficiently, including being more supportive of new startup and legacy businesses while making Bermuda more attractive to others considering domiciling in Bermuda. Such a transition would position Bermuda to recover more robustly and will be necessary considering the unlikelihood of a strong tourism or general business recovery in the near term.

Further items for consideration are:

1. the regulation of monopoly or significant market power of certain facilities e.g., pipelines, piers, etc.;
2. enhanced regulation of retail gasoline and diesel prices; and
3. the review/prohibition of potential anti-competitive practices.