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URCA Issues Preliminary Determination and Draft Order – BTC June Network Outages

Following its investigation into the Bahamas Telecommunications Company Limited's (BTC) network outage on June 18th of this year, the Utilities Regulation and Competition Authority (URCA) made a preliminary finding that BTC breached Condition 27.1.1 (a) of its individual operating licence, by failing to take all reasonably practicable steps to maintain, to the greatest extent possible, the proper and effective functioning of its public telephone network.

Specifically, Condition 27.1.1(a) of the BTC individual operating licence requires that:

“The Licensee shall take all reasonably practicable steps to maintain, to the greatest extent possible:

- (a) the proper and effective functioning of any Public Telephone Network provided by it at all times”*

Accordingly, URCA issued a Preliminary Determination and Draft Order to BTC on December 21, 2012. The Preliminary Determination outlines URCA's investigative findings and the Draft Order prescribes measures to be imposed on BTC, in order to rectify the breach, including preventative measures going forward. BTC has been given until January 25, 2013 to respond URCA's position. It is a statutory requirement¹ that the regulator permit licensees an opportunity to present any representation or objections, before a final determination and order may be issued.

URCA's preliminary determination of a breach was based on three principal findings:

1. BTC's failure to establish adequate redundancies, resiliencies and contingencies in its network design. BTC reported having knowledge of the limited geographic redundancy of the network platforms since April 2011. However, prior and up to the date of the network outage, BTC failed to take measures to effectively rectify and/or correct this critical network concern.
2. Inadequate preventative maintenance of the network equipment at the Poinciana Drive Technical Complex and its backup systems. There was no evidence in the preventative

¹ Communications Act, Section 100 (2)

records submitted by BTC to URCA of processes and procedures to sufficiently test and maintain backup batteries, nor were there measures to address generator and automatic transfer switch faults. The failure of BTC's entire bank of batteries, the generator and automatic transfer switch hindered the restoration of power to the Technical Complex and services to the public.

3. BTC's failure to implement an effective business continuity plan. Up to June 18th, BTC had neither established nor implemented such a plan. Business continuity plans and measures are necessary to guarantee continuous, uninterrupted operation of electronic communications networks and services.

URCA's Draft Order outlines the regulator's intent to impose four obligations on BTC:

1. To conduct an impact analysis and risk assessment in order to reduce all major weaknesses and vulnerabilities in its network infrastructure, that provides for the implementation of:
 - a. Redundancies, resiliencies and contingencies built into the Licensee's network design
 - b. Alternative traffic paths (establishing physical separation as much as possible)
 - c. Safeguards against power outages
 - d. Stand-by equipment
 - e. Security of critical network infrastructure.
2. To establish an adequate backup power supply at its Poinciana Drive Technical Complex (batteries and generators) on or before February 28, 2013 that will support continuous electronic communications network functionality and services at all times in the event of power outage.
3. To systematically conduct preventative maintenance of its network, ancillary equipment and stand-by equipment in accordance with pre-determined schedules, which shall be agreed with URCA.
4. To systematically perform tests on stand-by equipment in accordance with international standards and best practice and subject to a pre-determined schedule, which shall also be agreed with URCA.

Once this Order is made final, BTC will have 30 days to comply. Failure to comply with the Order in part or whole could attract a fine not exceeding ten per cent of BTC's relevant turnover or other penalty that may be determined by URCA.

This preliminary decision follows an extensive investigation that was launched on June 22nd following a nationwide outage on Monday June 18, 2012 of BTC's cellular mobile and fixed (voice and broadband) networks, with continued service disruptions into Tuesday June 19, 2012. BTC fulfilled URCA's initial reporting requirement on July 17, 2012 and satisfied URCA's requirement for additional information on September 24, 2012 in a supplemental report.

A Final Determination and Order is expected within thirty calendar days after URCA has received representations and objections from BTC.

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