



BERMUDA

REGULATORY AUTHORITY (TRANSITIONAL FUELS PRICING) INTERIM GENERAL DETERMINATION 2024

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The Regulatory Authority, in the exercise of the power conferred by sections 62 and 66 of the Regulatory Authority Act 2011 and section 29 of the Fuels Act 2022, makes the following Interim General Determination:

Citation

1 This Interim General Determination (“IGD”), which is made pursuant to the Consultation entitled “Fuel Pricing Methodology Consultation Document” dated 2 January 2024, may be cited as the Regulatory Authority (Transitional Fuels Pricing) Interim General Determination 2024.

Interpretation

2 (1) In this IGD—
“Fuels Act” means the Fuels Act 2022;

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“Final Methodology” means a methodology established under section 29(1) of the Fuels Act following the completion of the Consultation underpinning this IGD;

“fuels operator” means a person engaged in business in the fuels sector; and

“RAA” means the Regulator Authority Act 2011.

(2) In all other cases, expressions have the meaning assigned by section 2 of the Fuels Act.

Purpose

3 The purpose of this IGD is to enable the Authority to set prices for fuel until such time as a Final Methodology is established and approved retail prices are set in accordance with that Final Methodology.

Regulation of increases of charges for specified commodities by fuels operators

4 (1) No fuels operator may increase the price or charge for a fuel or any published schedule of prices or charges therefor unless notice in writing of the increase and of the amount thereof has been duly given to the Authority.

(2) Any increase in installation charges, labour charges for repairs or other charges made in connection with the installation or use of any apparatus used for the supply of or necessary for the beneficial enjoyment of a fuel, or of the delivery charges for such commodity, is deemed not to be an increase of the price or charge of fuel for the purposes of subsection (1).

(3) When notice of intention to increase prices or charges to which subsection (1) applies has been duly given to the Authority those prices or charges may not be increased otherwise than—

- (a) in the event of the Authority giving a direction under section 5 within a period of thirty days beginning with the date on which that notice of intention was given, to the extent and in such amount as may be permitted by the direction;
- (b) in any other case, until after the expiration of the said period of thirty days.

Power of Authority on receipt of notice of increase

5 (1) On receipt of a notice given under section 4(1) the Authority may, after making such inquiry in the matter as it may think fit for the purpose of ascertaining that the increase is just and reasonable, give a direction—

- (a) approving the increase; or
- (b) disallowing the increase either wholly or in part; or
- (c) postponing the date upon which the increase is intended to be effective to such other date as may be specified; or

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(d) otherwise setting out the terms and conditions upon which the increase may be made.

(2) In the exercise of its discretion under subsection (1) the Authority must have regard to—

- (a) the cost to the supplier of the fuel;
- (b) the needs of the supplier for adequate working capital and to establish reasonable reserves;
- (c) the need to afford investors a reasonable rate of return on their investment;
- (d) the public interest;
- (e) any other matters which, to the Authority, appear relevant.

(3) The burden of proof to show that any increase in the price or charge of a fuel is just and reasonable is upon the owner of the fuels operator seeking the increase.

Appeal

6 (1) A person that is aggrieved by a direction of the Authority under section 5 may appeal to the Supreme Court on that account.

(2) Section 96 of the RAA applies in relation to such an appeal.

Further powers to obtain information

7 (1) The Authority may, for the purposes of this IGD, by notice to a fuels operator require such operator—

- (a) to furnish, whether by periodical returns or other means, such estimates or other information as may be specified or described in the notice;
- (b) to produce to the Authority, any documents so specified or described;
- (c) to keep such records as may be so specified or described.

(2) A notice under this section may specify the way in which, and the time during which, it is to be complied with.

(3) If a fuels operator fails to comply with a notice under this section, such fuels operator is liable to enforcement proceedings under section 93 of the RAA.

Enforcement of price control provisions

8 A fuels operator that—

- (a) increases any price or charge or published schedule of prices or charges for a fuel without giving notice as required by section 4(1); or
- (b) fails to comply with a direction of the Authority under section 5,

is liable to enforcement proceedings under section 93 of the RAA.

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Effective date and expiration of IGD

9 (1) This IGD takes effect on the day it is published in the Official Gazette.

(2) This IGD expires on the date on which a Final Methodology is established or six months from the date on which this IGD becomes effective, whichever is sooner.

Signed this 3rd day of January 2024

Chairman, Regulatory Authority

[Operative Date: 03 January 2024]