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PORT MORESBY, TUESDAY, 16th JULY

[2002

Electricity Commission (Privatization) Act 2002

TRANSFER OF ASSETS, LIABILITIES AND EMPLOYEES

WHEREAS—

- (a) PNG Power Limited (Company No. 1-44680) ("PNG Power"), has been incorporated by the Privatization Commission under Section 3(1) of the *Electricity Commission (Privatization) Act 2002* (the "Act") as the successor company to the Papua New Guinea Electricity Commission, a statutory corporation established under the *Electricity Industry Act* (Chapter 78) ("ELCOM"); and
- (b) PNG Dams Limited (Company No. 1-46259) ("PNG Dams") is a State owned entity incorporated for the purposes of the Act.

NOW I, Silas Atopare, G.C.M.G., K.St.J., Governor-General, by virtue of the powers conferred by Sections 4 and 5 of the *Electricity Commission (Privatization) Act 2002* and all other powers me enabling, acting with and in accordance with, the advice of the National Executive Council, hereby—

1. Transfer of Sirinumu dam and Yonki dam, and related liabilities, to PNG Dams Transfer to PNG Dams—
 - (a) all of ELCOM's right, title and interest to Sirinumu dam and Yonki dam, but not including the electricity generating assets located at Sirinumu and Yonki dam;
 - (b) all of ELCOM's liabilities, which relate to Sirinumu dam or Yonki dam; and
 - (c) water use permits held by ELCOM relating to Sirinumu dam and Yonki dam; and
2. Transfer of Elcom's other assets and liabilities to PNG Power Transfer to PNG Power—
 - (a) all of ELCOM's right, title and interest to any and all assets other than those transferred to PNG Dams pursuant to Item 1 (a) and (c), including, without limitation, the electricity generation assets located in the areas of Sirinumu dam and Yonki dam; and
 - (b) all of ELCOM's liabilities other than those transferred to PNG Dams pursuant to Item 1 (b) and (c); and
 - (c) all water use permits held by ELCOM and referred to in Section 7(17) of the Act; and
3. Employees
 - Transfer all of the employees of ELCOM to the employment of PNG Power, and
 - Declare PNG Power as a "specified entity" for the purposes of Section 8 of the Act; and

Transfer of Assets, Liabilities and Employees—continued

5. Shares in PNG Power

In accordance with the privatization policy of the Privatization Commission, transfer all of the issued shares in the capital of PNG Power to the Privatization Commission (or, if on the date of this notice it is the successor to the Privatization Commission, the Independent Public Business Corporation of Papua New Guinea as trustee of the General Business Trust under the *Independent Public Business Corporation of Papua New Guinea Act 2002*); and

6. Consideration

Hereby determine that the consideration for the transfers referred to in Items 2 and 3 is nil, with effect on and from the date of its publication of this notice in the *National Gazette*.

Dated this 16th day of July, 2002.

SILAS ATOPARE,
Governor-General.

Harbours Act (Chapter 240)**DIRECTION TO TRANSFER ASSETS AND LIABILITIES**

I, Silas Atopare, G.C.M.G., K.St.J., Governor-General, by virtue of the powers conferred by Section 36B(1) of the *Harbours Act (Chapter 240)*, acting with, and in accordance with, the advice of the National Executive Council, hereby direct that all assets and liabilities of the Papua New Guinea Harbours Board established under the Act be transferred to PNG Harbours Limited, the Successor Company incorporated by the Privatization Commission under Section 36A of the Act for nil consideration, with effect on and from the date of this instrument.

Dated this 16th day of July, 2002.

SILAS ATOPARE,
Governor-General.

Harbours Act (Chapter 240)**DIRECTION TO TRANSFER EMPLOYEES**

I, Silas Atopare, G.C.M.G., K.St.J., Governor-General, by virtue of the powers conferred by Section 36C(1) of the *Harbours Act (Chapter 240)*, and all other powers me enabling, acting with, and in accordance with, the advice of the National Executive Council, hereby direct that all employees of the Papua New Guinea Harbours Board established under the Act be transferred to the employment of PNG Harbours Limited, the Successor Company incorporated by the Privatization Commission under Section 36A of the Act, with effect on and from the date of this instrument.

Dated this 16th day of July, 2002.

SILAS ATOPARE,
Governor-General.

Independent Consumer and Competition Commission Act 2002**DECLARATION OF REGULATED ENTITY**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 32 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby—

- (a) declare PNG Power Limited (Company No. 1-44680), being an entity that supplies or is capable of supplying goods or services in the electricity supply industry, to be a regulated entity; and
- (b) declare the supply of the following services, being services supplied or capable of being supplied by PNG Power Limited, to be regulated services:—
 - (i) Supply and Sale of electricity;
 - (ii) Excluded Services;
 - (iii) Scheduled services.

with effect on and from the date of publication of this notice in the *National Gazette*.

For the purposes of this declaration—

Connection Point means the point of connection between, on the one hand, a transmission or distribution network operated by PNG Power Limited and, on the other hand, a premises, public lighting installation or electric line or equipment operated by a person other than PNG Power Limited through which electricity supplied by that network is supplied to a premises or public lighting installation;

Declaration of Regulated Entity—continued**Excluded Services means—**

- (a) provision of a distribution network extension to connect a premises or public lighting installation; or
- (b) provision of a network connection with sufficient capacity to meet a customer's full demand where the customer has some locally installed generation or co-generation (ie. standby charge); or
- (c) network augmentation associated with the connection of a new load; or
- (d) testing of the variation of the voltage at a customer's terminals at the request of the customer; or
- (e) inspecting or testing any service lines, apparatus or works on a customer's premises at the request of a customer;

Scheduled Services means—

- (a) provision of temporary supply; or
- (b) new connection where a line is already connected to the relevant Connection Point; or
- (c) reconnection for defaulting customers; or
- (d) intermediate meter reading; or
- (e) metering and service (single phase)(new connection where a line is required to connect to the relevant connection point for a single phase connection; or
- (f) metering and service (three phase)(new connection where a line is required to connect to the relevant connection point for a three phase connection; or
- (g) metering testing;

Supply and Sale of electricity means all of the services required—

- (a) to generate electricity and to deliver, or support the delivery of, electricity to a Connection Point (including maintenance of the capability of the relevant generating plant to generate electricity and of the relevant transmission or distribution network to transfer electricity through the network and deliver it to, and allow it to be taken from, the Connection Point, and the management, maintenance and operation of that generating plant and that transmission or distribution network); and

- (b) to sell that electricity,

except for—

- (c) Excluded Services; and
- (d) Scheduled Services.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

Independent Consumer and Competition Commission Act 2002**NOTICE OF ISSUING OF REGULATORY CONTRACT**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 37 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby give notice of a regulatory contract applying to PNG Power Limited (Company No. 1-44680) being issued under Section 34 of the *Independent Consumer and Competition Commission Act 2002* and hereby fix the date of publication of this notice in the *National Gazette* as the date on which the said regulatory contract shall take effect.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

Independent Consumer and Competition Commission Act 2002**NOTICE OF MAKING OF CODE**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Sections 17 and 40 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby give notice of the making of the Electricity Code.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

*Independent Consumer and Competition Commission Act 2002***DECLARATION OF REGULATED ENTITY**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 32 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby—

- (a) declare PNG Harbours Limited (Company No. 1-46339); being an entity that supplies or is capable of supplying goods or services in the essential port services industry, to be a regulated entity; and
- (b) declare the supply of the following services, being services supplied or capable of being supplied by PNG Harbours Limited, to be regulated services:—
 - (i) Berth Reservation Services;
 - (ii) Berthing Services;
 - (iii) Wharfage Services; and
 - (iv) Stevedoring Access,

with effect on and from the date of publication of this notice in the *National Gazette*.

For the purposes of this declaration—

Berth Reservation Service means—

- (a) a port services consisting of providing berth reservations for Vessels at a Declared Port; and
- (b) all services supplied in connection with the supply of such port services.

Berthing Service means—

- (a) a port service consisting of providing berths for Vessels at a Declared Port; and
- (b) all services supplied in connection with the supply of such port services.

Declared Port means a port declared under Section 2 of the *Harbours Act* (Chapter 240);—

Vessel means a ship, boat or other vessel used for any purpose on the sea or in navigation—

Stevedoring Access means the right of stevedores to enter upon the port and associated facilities operated by PNG Harbours Limited for the purposes of loading and unloading ships and other vessels, but does not include the right to move cargo between ships and other vessels and stacking areas, or to store, sort, stack or deliver cargo within the transit sheds and open stacking areas within the boundaries of a Declared Port.

Wharfage Services means—

- (a) a port service consisting of providing port facilities for loading or unloading Vessels at a Declared Port; and
- (b) all services supplied in connection with the supply of such port services,

but does not include the provision of such services to pleasure craft less than 10 metres in length, vessels of primitive build or warships.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

*Independent Consumer and Competition Commission Act 2002***NOTICE OF ISSUING OF REGULATORY CONTRACT**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 37 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby give notice of a regulatory contract applying to PNG Harbours Limited (Company No. 1-46339) being issued under Section 34 of the *Independent Consumer and Competition Commission Act 2002* and hereby fix the date of publication of this notice in the *National Gazette* as the date on which the said regulatory contract shall take effect.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

*Independent Consumer and Competition Commission Act 2002***DECLARATION OF REGULATED ENTITY**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 32 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby—

- (a) declare Motor Vehicles Insurance Limited (Company No. 1-29221), being an entity that supplies or is capable of supplying goods or services in the compulsory third party motor vehicles insurance industry, to be a regulated entity; and
- (b) declare the supply of Third Party Insurance Cover, being services supplied or capable of being supplied by Motor Vehicles Insurance Limited, to be regulated services:—

with effect on and from the date of publication of this notice in the *National Gazette*.

For the purposes of this declaration—

Third Party Insurance Cover means compulsory third party motor vehicles insurance coverage the effect of which is to indemnify owners of motor vehicles against the sums specified in Section 49(2)(a) of the *Motor Vehicles (Third Party Insurance) Act* (Chapter No. 295) for which the driver or his estate may become liable by way of damages for the death of or bodily injury to a person caused by, or arising out of the use of, a motor vehicle.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

*Independent Consumer and Competition Commission Act 2002***NOTICE OF ISSUING OF REGULATORY CONTRACT**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 37 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby give notice of a regulatory contract applying to Motor Vehicles Insurance Limited being issued under Section 34 of the *Independent Consumer and Competition Commission Act 2002* and hereby fix the date of publication of this notice in the *National Gazette* as the date on which the said regulatory contract shall take effect.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

*Independent Consumer and Competition Commission Act 2002***DECLARATION OF REGULATED ENTITY**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 32 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby—

- (a) declare Telikom PNG Limited (Company No. 1-26889) and Pacific Mobile Communications Limited (Company No. 1-18901), being entities that supply or are capable of supplying goods or services in the telecommunications industry, to be a regulated entities; and
- (b) declare the supply of the following services, being services supplied or capable of being supplied by Telikom PNG Limited and Pacific Mobile Communications Limited (Telikom), to be regulated services:—
 - (i) Fixed Network Services;
 - (ii) Mobile Network Services;
 - (iii) Excluded Services,

with effect on and from the date of publication of this notice in the *National Gazette*.

For the purposes of this declaration—

Commencement Date means the date this declaration comes into operation;

Commission means the Independent Consumer and Competition Commission established under the *Independent Consumer and Competition Commission Act 2002*, or its successors under any other relevant legislation;

Customer means a person to whom Fixed Network Services or Mobile Network Services are provided by Telikom, or a person who is seeking to have Fixed Network Services or Mobile Network Services provided to it by Telikom;

Declaration of Regulated Entity—continued

Customer Cabling Services means cabling undertaken for Customers by wiring technicians or engineers who are licensed for that purpose by PANGTEL, including—

- (a) the installation of telecommunications wiring in the Customer's premises beyond the point at which the fixed telecommunications network operated by Telikom terminates; and
- (b) the installation of a second socket; and
- (c) the installation of data communications cabling for the Customer's local area network and other private use on the Customer's premises; and
- (d) other functionally similar services that the Commission and Telikom agree to in writing from time to time;

Customer Premises Equipment means telecommunications network terminal equipment which has been type approved by PANGTEL for telecommunications use including—

- (a) PABX systems; and
- (b) key systems; and
- (c) modems; and
- (d) network termination units (NTUs); and
- (e) facsimile equipment; and
- (f) private payphones; and
- (g) other functionally similar equipment that the Commission and Telikom agree to in writing from time to time.

Designated Operations Area means an area encompassing a place in Papua New Guinea which as at 1st January, 2002 had, or was within one kilometre of a place that had, a Telecommunications Service provided through the Public Telecommunications Network, as that area may be more specifically defined in a written agreement between the Commission and Telikom which is executed by them prior to the first anniversary of the Commencement Date;

Excluded Services means the services described in the Schedule;

Fixed Network Access Services means the services associated with connection to the fixed telecommunications network operated by Telikom where such connection is made in a Designated Operations Area, excluding the provision of Customer Premises Equipment, Customer Cabling Services and Excluded Services. As at the Commencement Date, the Fixed Network Access Services are those services referred to as—

- (a) business line rentals; and
- (b) residential line rentals; and
- (c) business connections (and reconnections and disconnections); and
- (d) residential connections (and reconnections and disconnections); and
- (e) business line installation; and
- (f) residential line installation,

where the connection to the fixed telecommunications network operated by Telikom is made in a Designated Operations Area;

Fixed Network Services means the services associated with the transmission of voice, facsimile and data over voice bandwidth on the PTN using the fixed telecommunications network operated by Telikom where such transmission originates or terminates in a Designated Operations Area, including the Fixed Network Access Services but excluding the provision of Customer Premises Equipment, Customer Cabling Services and Excluded Services. As at the Commencement Date, the Fixed Network Services comprise the following services (whether charged on a free, fixed period, untimed or timed basis), in addition to the Fixed Network Access Services:—

- (a) outgoing international calls (all bands);
- (b) national long distance (or toll) calls (all bands);
- (c) fixed to mobile calls;
- (d) local calls;
- (e) internet dial-up calls,

where the transmission originates or terminates in a Designated Operations Area;

Mobile Network Access Services means the services associated with accessing the cellular mobile telecommunications network operated by Telikom, excluding the provision of customer handsets, short message services on the signalling channel and Excluded Services. As at the Commencement Date, the Mobile Network Access Services are those services referred to as:—

- (a) rental or subscription for any periodic fee; and
- (b) activation; and
- (c) reconnection.

Declaration of Regulated Entity—continued

Mobile Network Services means the services associated with the transmission of voice using the cellular mobile telecommunications network operated by Telikom, including the Mobile Network Access Services but excluding the provision of customer handsets, short message services on the signalling channel, recorded message services and Excluded Services. As at the Commencement Date, the Mobile Network Services comprise the following services (whether charged on a free, fixed period, untimed or timed basis), in addition to the Mobile Network Access Services:—

- (a) outgoing international calls (all bands);
- (b) mobile to mobile calls (all bands);
- (c) mobile to fixed calls.

PANTEL means the Papua New Guinea Radiocommunications and Telecommunications Technical Authority;

Public Telecommunications Network (or PTN) has the meaning given to it in the *Telecommunications Act 1996*;

Telecommunications Service has the meaning given to it in the *Telecommunications Act 1996*;

SCHEDULE**EXCLUDED SERVICES**

The provision of the following services except to the extent they are used to provide Fixed Network Services or Mobile Network Services:—

1. Digital data services, being services for the carriage of communications in a digital form between Customer Premises Equipment and a point of interconnection, where—
 - (a) the Customer Premises Equipment is directly connected to a network operated by a licensee or a Customer;
 - (b) the carriage is capable of occurring at—
 - (i) an X.50 rate using X.50 interfaces; or
 - (ii) an nx64 rate using nx64 interfaces; and
 - (c) the carriage interworks with higher management facilities and network controls.
2. Digital transmission services, being services for the carriage of communications in a digital form from one transmission point to another transmission point via network interfaces and line links at a designated data rate on a permanent basis by means of guided and/or unguided electromagnetic energy where the carriage of such communications utilises digital transmission protocols which are agreed between Telikom and the relevant licensee or customer and which conform to one or more internationally accepted standards.
3. Internet access services, being services for the carriage of communications in a digital form utilising protocols which conform to one or more internationally accepted standards (such as the Transmission Control Protocol/Internet Protocol (TCP/IP)) and which either provide dedicated (either dial-up or permanent) access between customers and the premises and/or equipment of an Internet Service Provider (ISP) or provide dedicated permanent line links to international gateways or other on-line services from an ISP's premises and/or equipment, at data rates requested by the ISP or customer that are technically feasible. They include the use of special number ranges or access codes for dial-up customer access which allow Telikom to distinguish those calls across its fixed telecommunications network which are internet access calls.
4. Integrated services digital network (ISDN) services that conform to one or more internationally accepted standards
5. Asynchronous transfer mode (ATM) services that conform to one or more internationally accepted standards.
6. Frame relay services that conform to one or more internationally accepted standards.
7. Other data services utilising data equipment which has been type approved by PANGTEL for telecommunications use.
8. Augmentation to the fixed or mobile telecommunications network operated by Telikom which is associated with access and interconnections.
9. As from the date (if any) on which the Commission, acting in accordance with Clause 10 of the regulatory contract that applies to Telikom with effect from the date of this notice, issues a licence under the *Telecommunications Act 1996* or any other applicable legislation that permits any person other than Telikom—
 - (a) to operate as a general carrier within a Designated Operations Areas; or
 - (b) to operate as a mobile carrier; or
 - (c) to operate in any other capacity,
 competitive network access and interconnection services which allow any-to-any connectivity across competing networks.

Declaration of Regulated Entity—continued**Schedule—continued**

10. Any other telecommunications services which are agreed between Telikom and the Commission to be Excluded Services.

Where—

an *access seeker network location* is a point in a network operated by a licensee (including Telikom) or a customer of such a licensee that—

- (a) is not a point of interconnection or a customer transmission point; and
- (b) is a point where the transmission services are requested by a licensee (other than Telikom) or a customer of a licensee (including Telikom) and can be technically delivered;

a *customer transmission point* is a point at or near Customer Premises Equipment located at a Customer's premises;

a *designated data rate* is a transmission rate of 2.048 megabits per second, 4.096 megabits per second, 6.144 megabits per second, 8.192 megabits per second, 34 to 45 megabits per seconds, 140/155 megabits per second or another transmission rate agreed between Telikom and another licensee or a Customer;

a *licensee* means the holder of a value added services licence, a public mobile licence or a general telecommunications licence under the *Telecommunications Act 1996*;

nx64 interfaces are X.21, V.35 and G.703/G.704 interfaces, with up to 8 service interfaces per customer access;

an *nx64 rate* is a rate of transmission equal to (n times 64 kilobits per second), where 'n' is a whole number between 1 and 31 (both inclusive);

a *point of interconnection* is a physical point of connection in Papua New Guinea between a network operated by Telikom and a network operated by another licensee, being a point that is agreed between Telikom and that other licensee;

a *transmission point* is any of the following:—

- (a) a point of interconnection; or
- (b) a customer transmission point; or
- (c) an access seeker network location;

X.50 interfaces are X.21, X.21bis and V.35(48 kilobits per second) interfaces, with one service interface per customer access;

an *X.50 rate* is a rate of transmission equal to 1200 bits per second, 2400 bits per second, 4800 bits per second, 9600 bits per second, 19.2 kilobits per second or 48 kilobits per second.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.

Independent Consumer and Competition Commission Act 2002**NOTICE OF ISSUING OF REGULATORY CONTRACT**

I, Mekere Morauta, Prime Minister and Minister for the Treasury, by virtue of the powers conferred by Section 37 of the *Independent Consumer and Competition Commission Act 2002* and all other powers me enabling, hereby give notice of a regulatory contract applying to Telikom PNG Limited (Company No. 1-26889) and Pacific Mobile Communications Limited (Company No. 1-18901) being issued under Section 34 of the *Independent Consumer and Competition Commission Act 2002* and hereby fix the date of publication of this notice in the *National Gazette* as the date on which the said regulatory contract shall take effect.

Dated this 11th day of July, 2002.

M. MORAUTA,
Prime Minister and Minister for the Treasury.