



MINISTERIAL DECREE

Of June 28 2017

THE MINISTER OF TOURISM, ECONOMIC AFFAIRS, TRAFFIC AND TELECOMMUNICATION

Mandate Energy Regulator

Whereas:

- the Ministry of Tourism, Economic Affairs, Traffic and Telecommunication (hereinafter: TEATT) is tasked with the regulation and oversight of the utilities sector that requires a regulatory body to be established for the execution of regulatory tasks for the Utilities sector;
- in line with the decision of the Executive Council of St. Maarten in 2008, as set forth in the Telecommunications Policy 2008-2012, a regulatory body is to be established that will undertake regulation of several sectors in St. Maarten;
- the Minister of TEATT elects to place the utilities regulation under an existing regulatory body, the Bureau Telecommunications and Post Sint Maarten (hereinafter: BTPSXM);
- for BTPSXM to assume these regulatory tasks several prior actions, including legislative changes, must be undertaken;
- in anticipation of such undertakings the Minister of TEATT finds it essential to commence the preparations hereto;
- the preparations to be undertaken are in fact to prepare and present the format of the regulatory approach for the utilities sector, to assess through the review of regulatory entities in this field (Best Practices model approach) to determine and advise on the most suitable regulatory approach for St. Maarten, and to commence training of staff to undertake the execution of such tasks;
- the regulatory approach follows directly from the National Energy Policy 2014, which forms an integral part of the regulation of the utility sector. The NEP reflects the steadfast developments within the sector both regionally and internationally, and states among other things the following necessary requirements:
 - Regulation of the energy market through a regulatory body & legislation;
 - The role of the regulatory body should be seen as threefold, namely to protect the consumers from abuse of market power, to support investment by protecting

investors from arbitrary action by government, and to promote economic efficiency.
The regulator's main responsibilities would be:

1. development and implementation of regulations for establishing and sustaining a fair investment environment (based on restructured legislation);
 2. protection of consumers against abuses by market player(s).
- To introduce a Regulatory Framework for the power sector, with tariffs to be determined by the regulator;

- To introduce a country wide Energy Efficiency program aiming at a reduction of power usage of at least 10%;
- In addition, a regulatory framework e.g. regulatory body needs to be established urgently to oversee the overall energy market, to ensure “just and reasonable” pricing, equitable access to infrastructure, good quality service and security of supply.
- Where necessary the electricity ordinance needs to be revised in order to attain compliance with the NEP;
- Legislative changes should be initiated for potential power supply from independent producers and households, to allow for provision to use/generate renewable energy, enter reverse metering agreements for households, big users, set up feedback agreement, establish an independent regulatory body and feed-in tariffs;
- The regulatory body is to monitor and ensure compliance to a possible Energy Act and NEP;
- A study should be done to review the possibilities for cooperation with geothermal projects on Saba and St. Eustatius, and options of interconnection with other islands for importing “green” electricity;
- Further studies shall be performed towards identification of the achievable total percentage of renewable energy, including considerations of introducing storage, demand response and the smart grid concept;
- A feasibility study should be done for requests for proposals for off shore wind and PV projects (to cover parking areas with PV, with charging stations for electric vehicles and at larger buildings solar panels on roofs);
- An “Interconnection Policy” should be developed, including technical and commercial requirements for connecting the distributed RE sources to the grid;
- The usage of electric cars should be promoted, L-vehicles to be replaced by new electric cars when new cars are needed; and
- Tax incentives should be set up for Renewable Energy and Energy Efficiency;
- the Minister finds that the regulatory body now regulating the Telecommunications and Post industry to be the most fitting entity to undertake the preparations outlined herein;
- BTPSXM needs to conduct studies related to establishing a regulatory framework towards St. Maarten utilities sector;

CONSIDERING:

- The National Ordinance regarding the Organization of Government (Landsverordening Inrichting en Organisatie landsoverheid);
- The National Energy Policy 2014;

HAS DECIDED:**Article 1**

For the purpose of this Decree:

Mandate: the power to take decisions in the name of the minister;

Minister: the Minister of Tourism, Economic Affairs, Traffic and Telecommunications;

Mandated: the official, who has been given the authority to take and sign decisions in the name of the mandator.

Article 2

- 2.1 The Minister remains authorized to exercise the delegated power and may revoke the mandate at any time.
- 2.2 A decision taken by the mandatory within the limits of his authority shall be a decision of the Minister.
- 2.3 A mandated decision declares that it has been taken on behalf of the Minister.

Article 3

- 3.1 The BTPSXM is mandated to take and sign decisions in the name of the Minister to undertake the preparations as outlined afore and may be assigned to BTPSXM in this regard in the course of this mandate for the due establishment of its regulatory segment for the utilities sector.
- 3.2 The BTPSXM is instructed to prepare the necessary advices in support of these preparations, to prepare the required budget to cover expenses related to the tasks to be undertaken and to commence training of staff for the impending assumption of tasks.
- 3.3 In accordance with the procedures established BTPSXM shall provide adequate and timely reporting on the progress of its undertakings with a minimum of four (4) times per year, and shall seek all pertinent prior approvals from the Minister as may be required during the process.
- 3.4 The mandate shall remain in effect until such time altered or revoked in writing by the Minister.

Article 4

- 4.1 In the event that the mandated authority referred to in this decree is exercised under the responsibility of the Minister for Tourism, Economic Affairs, Traffic and Telecommunications, outgoing documents shall be signed as follows:
"THE MINISTER OF TOURISM, ECONOMIC AFFAIRS, TRAFFIC AND TELECOMMUNICATIONS, on their behalf"
Followed by signature, name and job title of the official.
- 4.2 The signing of a document made for execution of the mandate shall be done in writing and not by placing a signature stamp or electronic signature.

Article 5

This decree shall enter into force on the date of publication in the National Gazette.

Philipsbrug,

M. Arrindell- Doncher **28 June 2017**
Minister of Tourism, Economic Affairs, Traffic and Telecommunications