



# **FINAL DETERMINATION AND ORDER**

**Issued to: ISLAND WISP**

**In the matter of: Breach of Licence Condition -  
Payment of Fees**

**Issue Date: September 23, 2011**

**UTILITIES REGULATION & COMPETITION AUTHORITY**

UBS Annex Bldg., East Bay Street | P.O. Box N-4860 Nassau, Bahamas | T 242.393.0234 | F 242.393.0153 | F 242.393.0237

[www.urcabahamas.bs](http://www.urcabahamas.bs)

# Final Determination

This Final Determination is issued by the Utilities Regulation and Competition Authority (“URCA”) pursuant to Section 99 of the Communications Act, 2009 (Comms Act):

**WHEREAS** on December 4, 2009 Simon Smith trading as Island WISP (“the Licensee”) was issued a Class Operating Licence Requiring Registration (“the Licence”) to provide public internet services;

**WHEREAS** Condition 1.11 of the Licence provides that:

*“The Licensee shall pay to URCA the following fees and contributions notified by URCA from time to time in accordance with the Communications Act:*

*1.11.1 any URCA Fees;*

*1.11.2 the communications licence fees notified by URCA on behalf of the Minister;*

*1.11.3 the contribution to the Universal Service Fund set by URCA from time to time in accordance with the Communications Act; and*

*1.11.4 the Tribunal Fee payable pursuant to Schedule 3 of the UAT Act.”*

**WHEREAS** Condition 1.14 of the Licence provides that:

*“...in the event of a default by the Licensee in the payment of any fees when due under this Licence:*

*1.14.1 the Licensee shall pay to URCA interest under section 94 of the Communications Act; and*

*1.14.2 URCA may revoke this Licence under the terms of the Communications Act.”*

**WHEREAS** under section 92 of the Comms Act the annual URCA Fee is to be calculated based on the Licensee’s relevant turnover and URCA has published in Table 2 of its Fee Schedule ECS 12/2009 document the annual URCA Fee (per annum) payable by a Licensee under a Class Operating Licence Requiring Registration.

**WHEREAS** under section 94 of the Comms Act interest shall accrue on overdue URCA fees daily at a rate of four percent per annum over the prime lending rate as published by the Central Bank of The Bahamas. The Quarterly Statistical Digest February 2011 Volume 20, No. 1 as published by the Central Bank of The Bahamas lists the prime lending rate for the 2010 as 5.50%.

**WHEREAS** on December 6, 2010 and February 24, 2011 URCA issued the Licensee Statements on Account for such amounts due and owing by the Licensee under the said Licence for the annual URCA Fee and interest thereon.

**WHEREAS** URCA, having notified the Licensee in accordance with the Comms Act to pay the annual URCA fees and interest thereon, URCA was of the opinion that the Licensee was and continued to be in breach of Condition 1.11 of the Licence by having failed and/or refused to pay the annual URCA Fee and such interest thereon.

**WHEREAS** on June 10, 2011, URCA:

- (a) Notified the Licensee:
  - (i) of the specific obligation or obligations the compliance or contravention of which were the subject of the Preliminary Determination; and
  - (ii) specified the period within which the Licensee could make representations about the matters in the Preliminary Determination, comply with the obligations referred to in the Preliminary Determination of which it is in contravention and remedy the consequences of the contraventions notified in the Preliminary Determination;
- (b) Enclosed a copy of the Draft Order under section 95 of the Communications Act, 2009 that URCA would issue a Final Determination in this matter; and

**WHEREAS** the Licensee has either failed or refused to make such representations as requested in accordance with the Preliminary Determination;

**THEREFORE** URCA having considered the information in its possession regarding the Licensee's failure to pay the annual URCA fees and interest thereon **HEREBY FINALLY DETERMINES THAT:**

The Licensee has failed to pay the annual URCA fees and the interest thereon and thereby has breached Conditions 1.11.1 and 1.14.1 of the said Licence.

**IN CONSEQUENCE THEREOF** URCA issues the attached Order to the Licensee under section 95 of the Communications Act, 2009 together with this Final Determination.

Dated this 23<sup>rd</sup> day of September, 2011



Kathleen Riviere-Smith  
**Director of Policy and Regulation**



## Order

This Order is issued by the Utilities Regulation and Competition Authority (“URCA”) pursuant to Section 95 of the Communications Act, 2009 (Comms Act).

**WHEREAS** by Final Determination made on September 23, 2011, URCA has determined that Simon Smith trading as Island WISP (“the Licensee”) has breached Condition 1.11.1 and 1.14.1 of the Licence by having failed and/or refused to pay the annual URCA Fee as notified by URCA under the Comms Act and the interest thereon;

**IT IS HEREBY ORDERED** that the Licensee pays the outstanding annual URCA Fee and interest thereon as stipulated in the attached Statement on Account within fourteen (14) calendar days of service of the Order.

**Failure by the Licensee to comply with this Order or any part thereof may result in the immediate revocation of the Licence in accordance with section 27(1)(c) of the Comms Act.**

Dated this 23<sup>rd</sup> day of September, 2011

Kathleen Riviere-Smith  
Director of Policy and Regulation



UTILITIES REGULATION & COMPETITION AUTHORITY  
 UBS Annex Building  
 East Bay Street  
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# STATEMENT

Island -Wisp  
 P.O. Box N-9423  
 Nassau, Bahamas

<u>Date</u>	<u>Page No</u>
June 07, 2011	1
<u>Account No</u>	
IW0001	
<u>Amount Enclosed</u>	
\$	

Account Number	License ID	Document Number	Date	Due Date	Invoice Type	Description/ Applied No	Amount
RO-09-0016		IN000669	03/06/2010	04/05/2010	IN	SEP 2009 - DEC 2010	3,275.00
RO-09-0016		IN000820	07/26/2010	08/25/2010	IN	INTEREST CHARGES	28.30
RO-09-0016		IN000123	06/07/2011	07/07/2011	IN	INTEREST CHARGES	74.26
<i>ACCOUNT OVERDUE. ALL CREDIT ON HOLD.</i>							<b>Total \$ 3,377.56</b>

0 - 0 Days	1 - 30 DAYS O/DUE	31 - 60 DAYS O/DUE	61 - 90 DAYS O/DUE
0.00	0.00	0.00	3,303.30