Office of Utility Regulation

Guernsey Electricity Price Review 2012
A New Approach to Price Regulation

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Consultation Paper

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1. Introduction

A New Approach to Regulating Electricity

The purpose of this consultation paper is to set out the proposals for a change in the OUR's approach to electricity regulation. This document sets out the proposed new approach, which will initially be trialled on a single year basis for 2012-13.

Previously, we have adopted a conventional "RPI-X" approach to regulation, originally developed in the UK for the water and electricity sectors, but which has subsequently been adopted around the world for a number of years and applied to a range of industries primarily in the utilities sector. It takes an ex-ante "price control" approach to price setting, taking information from the regulated businesses and using this to determine appropriate price changes and set stretching efficiency targets for the company concerned, typically for the next 3 to 5 years.

The recent review of regulation indicated that this model may not be appropriate for Guernsey, and that a less conventional approach to regulation might be preferred for fully state owned utilities like Guernsey Electricity Limited (GEL) which are part of the public sector. Therefore, the OUR proposes adopting the "price review" approach set out below. The OUR believes this provides the best balance between the expectations of GEL and the States for a new approach and the interests of consumers and the economy of Guernsey as a whole.

The OUR will trial this approach for 2012-13 and its success will depend on all of the parties fulfilling their roles. This new approach will requires a greater degree of transparency and disclosure ahead of price increases than the previous price controls. In some ways it may offer less certainty to customers and to the company by looking forward over a shorter time horizon and allowing price increases which may later be reconsidered by the regulator.

For this approach to work, GEL will need to publish the reasons for any price changes. There will be a need for increased transparency from GEL in setting out its business case for any price increase (or for maintaining rather than reducing prices). The shareholder will have to be clearer in terms of its expectations of its return from the company and any commercial pressures, such as expectations of dividend growth or cost reductions.

The Board and Management will need to be rigorous in their challenge of the business plan and in setting efficiency targets for the business while maintaining their focus on the core activities and delivering the output from the investment programme, without letting standards of service to customers slip.

The key roles for economic regulation include encouraging competition and where this is not possible, in a monopoly market such as electricity, to act in lieu of competition. This means making sure that the pressure on companies to manage costs and improve efficiency while also improving service quality that would normally be provided by competition is also applied in a monopoly market. In reviewing future price changes against the company's costs and efficiency proposals, the regulator will need to have regard to what can be achieved in a competitive environment, what has been achieved in comparable markets, like Guernsey Post, and the costs of similar companies in other markets.

GEL has already indicated it will look to increase tariffs by 5.5% from 1st April. This includes a 2.5% increase already agreed with the OUR in September 2011. The further increase above this is also being applied by GEL.

2. Structure of this Paper

This Consultation Paper sets out a proposed new approach to setting and reviewing electricity prices for 2012-13. If accepted, these proposals will form the basis for the setting of Guernsey Electricity's electricity tariffs for 2012-13 and their review.

Structure

The rest of this paper is structured as follows:

Section 2: Structure of the Paper and consultation process

Section 3: Summarises the legal framework of this price control;

Section 4: Proposed new approach for the 2012-13 price review;

Section 5: Cost Pass Through;

Section 6: Next Steps.

Responses to the Consultation

This is the consultation paper putting forward proposals for the setting of electricity prices in Guernsey for 2012-13. The comments received from respondents to the consultation will be used to inform the final version of the approach that is put forward for 2012-13.

In accordance with the OUR's policy on consultation as set out in document OUR 05/28[1], all non-confidential responses will be published on the OUR's website at www.cicra.gg and are available for inspection at the OUR's office during normal working hours.

In the paper a number of specific questions are raised and the OUR would welcome feedback on these and on any more general issues relating to the proposals as a whole.

The timetable for this consultation will need to be shorter than usual to allow sufficient time for responses to be assimilated and the final proposals to be developed and published in time to allow GEL to set new tariffs on 1 April 2012 (which will require notification to be published on 1 March).

Responses to this consultation are invited from all interested parties. Responses from customers and other stakeholders would be particularly welcome. Responses should be addressed to:

Office of Utility Regulation,
Suites B1 & B2,
Hirzel Court,
St Peter Port,
Guernsey, GY1 1YH.

Or by email to info@cicra.gg

Responses should arrive no later than close of play Friday 10 February 2012.

[1] OUR 05/28: Regulation in Guernsey: Revised Consultation Procedures Information Paper

In line with the policy set out in Document OUR 05/28 – “Regulation in Guernsey; Revised Consultation Procedures”, the DG intends to make any further comments received available on the OUR website. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential. However the DG regrets that he is not in a position to respond individually to the responses to this consultation.

Any comments received will be taken into account by the DG in informing his consideration of the issues addressed in this consultation.

3. Legislative and Licensing Background

Overview

The legislative framework underpinning the regulatory regime for the electricity sector is governed by:

- The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (the "Regulation Law");
- The Electricity (Guernsey) Law, 2001 (the "Electricity Law");
- The Electricity (Guernsey) Law 2001 (Commencement and Amendment) Ordinance 2001; and
- States Directions to the DG adopted by the States of Guernsey[2].

The Electricity Law defines the three activities that constitute the electricity supply chain under the current legislative framework. These are:

- the generation of electricity;
- the conveyance of electricity across the electricity network; and
- the supply of electricity directly to homes and businesses.

These terms are defined in the Electricity Law and govern the current licensing framework.

Director's duties

The Director General has a number of duties, together with the States, set out under regulation law. These are set out in part II of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 "General duties of the States and Director General" as follows:

2. *In exercising their respective functions and powers, the States and the Director General shall each have a duty to promote (and, where they conflict, to balance) the following objectives –*

   (a) *to protect the interests of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels, permanence and variety of, utility services;*
   (b) *to secure, so far as practicable, the provision of utility services that satisfy all reasonable demands for such services within the Bailiwick, whether those services are supplied from, within or to the Bailiwick;*
   (c) *to ensure that utility activities are carried out in such a way as best to serve and contribute to the economic and social development and well-being of the Bailiwick;*
   (d) *to introduce, maintain and promote effective and sustainable competition in the provision of utility services in the Bailiwick, subject to any special or exclusive rights awarded to a licensee by the Director General pursuant to States' Directions;*
   (e) *to improve the quality and coverage of utility services and to facilitate the availability of new utility services within the Bailiwick; and*
   (f) *to lessen, where practicable, any adverse impact of utility activities on the environment;*

and, in performing the duty imposed by this section, the States and the Director General shall have equal regard to the interests of the residents of all islands of the Bailiwick.

[2] Billet d'Etat no. XVIII of 2001, pages 1263-1264; and Billet d'Etat no. I of 2003, p.55

Licensing Regime

The States of Guernsey has issued a number of States Directions in relation to the licensing of electricity activities in Guernsey. In accordance with those Directions the DG issued the first licences for electricity generation, conveyance and supply to the incumbent electricity company, Guernsey Electricity Limited (GEL) on 1st February 2002.

The market for generating electricity is, in principle, open to competition. However, GEL has exclusive licenses for the conveyance and supply of electricity. This means that under the current regime no other operator can lay electricity cables and only GEL may sell electricity to end customers.

Until recently this exclusivity ran up to 31 January 2012, but following the Commerce and Employment Review of Regulation, and subsequent States Resolution this will be extended for a further ten years. Anyone generating electricity must therefore use the existing electricity network of GEL to convey electricity from their generation plant and only GEL may supply that electricity on to other customers.

Legislative Background to Price Regulation

Section 5(1) of the Electricity (Guernsey) Law, 2001, provides that the DG may include in licences such conditions as he considers necessary to carry out his functions. The Law specifically provides that such conditions can include (but are not limited to) conditions regulating the price premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position[3] in a relevant market[4].

In accordance with these provisions, the "Electricity Licence Conditions" include the following condition 20.2:

> "The DG may determine the maximum level of charges the Licensee may apply within a relevant market in which the Licensee has been found to be dominant. A determination may;
>
> (g) provide for the overall limit to apply to such charges;
> (h) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; and
> (i) provide for different limits to apply in relation to different periods of time falling within the periods to which any determination applies."

This condition allows the DG to regulate the prices that a licensee charges for its electricity services in a way and for a period that he deems appropriate, provided the licensee has a dominant position in the relevant market.

As set out in a previous OUR document (OUR03/07), Guernsey's retail electricity market currently possesses a monopolist/dominant operator that also has a dominant position throughout the electricity supply chain. This position of economic strength is unlikely to change in the near to medium term. In this context, it is essential the social objective of maintaining the affordability of

[3] Condition 5(1)(f) of the Electricity (Guernsey) Law, 2001.
[4] Section 22 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 states that: "*A dominant position in relation to a relevant market shall be construed as it would be in the United Kingdom under the Competition Act 1998, but with the substitution, where appropriate, of references to the Bailiwick for references to the United Kingdom.*" The Competition Act 1998 utilises the definition of dominance that has developed under European Community Competition Law.

electricity provision, thus underpinning economic growth, is safeguarded. In the absence of competition, price control is widely accepted as the most appropriate tool to achieve this.

The OUR also wish to highlight the States guidance to T&R at the time of commercialisation of GEL. This guidance stated, inter alia, that:

4. Financial performance targets for Guernsey Electricity Limited shall be set so as to:

1. *deliver improved efficiency in fulfilling the requirements of the Public Supply Obligation imposed under the regulatory regime whilst drawing a balance between seeking a commercial return on the resources employed and the effect on the community of any increase in charges which may result; and*
2. *achieve as soon as is practicable an appropriate commercial return on the resources employed in the provision of other services.*

The report on regulation in Guernsey produced by RPI for the Commerce and Employment Department as part of their Review of Regulation and subsequent States Resolutions were published in the Billet d'Etat[5] for the September 2011 States meeting.

This sets out and clarifies a number of issues and includes guidance to the Regulator that the key Principles for Regulation[6] set out by the UK's department for Business Innovation and Skills (BIS) should be followed, subject to appropriate adaptation for Guernsey. The six key principles are:

- Accountability;
- Focus;
- Predictability;
- Coherence;
- Adaptability;
- Efficiency.

At the States debate on 30 September 2011, a number of resolutions were passed, the detail of which is set out on the States website[7], a copy of which is attached at Annex 1.

[5] Billet d'Etat XV, 19 August 2011,
[6] Principles for Economic Regulation, UK Department for Business Innovation and Skills (BIS): April 2011; which can be found at: http://www.bis.gov.uk/assets/biscore/better-regulation/docs/p/11-795-principles-for-economic-regulation.pdf
[7] Billet d'Etat XV, 19 August 2011, the full report may be found on the States of Guernsey website, the resolutions are those from 30 September 2011 and can be found at: http://www.gov.gg/ccm/navigation/government/states-meetings---billets-d-etat/2011/september/

4. Proposed New Approach

Summary & Background

For 2012-13, the OUR proposes to adopt an *ex post* "Price Review" approach to regulating electricity prices in Guernsey to replace of the *ex ante* "Price Control" applied in previous years. It is a significant departure from the more conventional "RPI-X" approach to price control which has used for price reviews since the commercialisation of Guernsey Electricity (GEL) in 2002 and is a common approach to regulating monopoly utility businesses in markets without competition.

While there are a number of different options for changing the way in which regulation could be applied to GEL, the OUR believes that this approach offers the best balance between the expectations of GEL and the States following its review of regulation, and the interests of customers and the economy of Guernsey as a whole. It offers the benefits of simplicity with a less interventionist approach. Increased transparency and disclosure will provide some reassurance to electricity customers on how their money is being used. It also gives greater freedom for GEL in setting prices and will be accompanied by a greater degree of transparency and clear ring fencing of customer funds for the core business.

Transparency will be a key factor in determining the success of this approach. Any price changes will depend on a number of initial requirements being met. Each year, GEL will need to have prepared and published its Regulatory Accounts in accordance with its licence. Any proposal for setting prices will need to be accompanied by the publication of a full and transparent justification for the increase. This will need to clearly explain the reasons for the increase, outline the company's business plan and including key elements of its costs and proposals for efficiency improvements. For 2012-13, ahead the proposed changes, GEL will need to provide the OUR with its proposals for ring fencing the save to spend reserve. This is to avoid unnecessary increases in prices to ensure that money raised in advance from customers for the company's long term capital investment plans is reserved for that purpose and available when needed. GEL will need to report this each year in an approach agreed with the OUR.

The proposal

Notification and implementation

From 1 April 2012-13, and initially on a trial basis, Guernsey Electricity will be allowed to decide on its own price increases and reductions in April for subsequent review by the OUR. These price changes will subsequently be reviewed by the OUR. Assuming that Guernsey Electricity's price increases stand up to scrutiny, the proposals will stand. However, if increases are found to be too high, or reductions too small, GEL will reduce its prices and return to customers any excess charges incurred.

The process will have two parts. The initial phase of "Notification and Implementation" will be followed by "Regulatory Review". If necessary, a third phase of "Post review amendment" would be implemented.

Tariff decisions would begin with GEL publishing its proposals notifying tariffs for the following year at least one month in advance - by 1 March for tariffs commencing 1 April. This would set out the reasons for any tariff change and the justification for the level of any increase. This statement, together with previous regulatory accounts and price reviews will set out a transparent baseline against which a subsequent review could be conducted.

The OUR will commence its review of prices as early as possible after the company determines prices for the following year. Its aim will be to review GEL price increases as swiftly as is practical, to ensure that if changes are required, they are made relatively quickly and minimise any overpayment by customers.

Assuming the review supports GEL's price determination, new prices would stand and no further action would be required. If the review finds that GEL's prices are not supported, and that the difference is material, GEL would amend its prices and return to customers any excess charges it had made over previous months. Where there is a difference but it is not sufficient to justify an immediate change in prices, GEL will be required to make its adjustment at the end of the year, ahead of its next tariff proposal.

As already indicated, GEL intends to implement a 5.5% increase in tariffs from 1st April 2012.

Regulatory Review

The review will be based largely on published information in the public domain – including the regulatory accounts and the company's statement on the justification for price increases. The amount of additional information, if any, will depend on the information published by GEL in justifying any price changes.

The review will be carried out on the basis of the DG's duties and with regard to the Principles of Regulation. Costs and efficiencies will be considered in the light of what might be expected in a competitive market, where there is pressure to reduce costs and improve services. Efficiency targets will be looked at in the light of what has been achieved elsewhere, for example in the utility sector elsewhere, in other States enterprises such as post and in light of, for example, efficiency targets applied by T&R across other States departments.

The OUR will begin its review of price increases as soon as is practical after price changes have been implemented. The aim is to carry out the regulatory review as swiftly as possible, to ensure that if changes are required, they are made quickly and minimise any overpayment by customers. The precise timing will depend on the availability of GEL's Business Plan and Regulatory Accounts but in any case should be completed in time to make any further price adjustment by 1 October.

Post review implementation

Assuming that the review supports the price changes proposed by the company, there would be no further action, tariffs would continue as set by GEL until the following year's tariff proposal.

In the event that the OUR's review indicated price increases were too high, or unnecessary, or that prices could have been reduced rather than maintained at existing levels, GEL will reduce prices immediately and within one month return to customers any excess charges it has made.

Any adjustments will be subject to an assessment of materiality, to avoid unnecessary changes for small adjustments to prices.. For small adjustments one approach would be to wrap changes into the following year's regulatory reviews and make adjustments once a materiality threshold was reached. The alternative would be to reduce April's company price adjustment by a similar amount on an NPV (Net Present Value) basis but this might be burdensome on GEL in terms of the level of detail required to demonstrate to customers that the adjustment had been made.

Requirements for moving to the new approach

There are a number of requirements that will need to be fulfilled ahead of this new approach. An increased level of transparency and disclosure of information to enable customers to understand what they are paying for and why prices are changing. GEL will need to ensure it publishes its Regulatory Accounts in a timely manner in accordance to enable the review process to be completed in line with the indicative timetable proposed in this report. With any proposal for a price change, GEL will need to publish a full, transparent justification for the increase. This will need to set out the reasons for the increase, outline the company's business plan and including key elements of its costs and proposals for efficiency improvements.

More specifically, the proposal for price increases will need to set out:

- Operating costs (compared to the previous year);
- Capital expenditure plans;
- the revenue it expects to generate from the tariff increase;
- its demand forecast, with expected growth in unit demand and peak demand;
- the level of efficiency target it plans to deliver during the year;
- any financial constraints faced by the business, as well as any benefits available (eg, the States funding facility);

We believe this is information that the business as a whole will need to have available in order to operate effectively and which the board will want to assess before determining future prices. Therefore, there will be no regulatory burden of providing additional information.

Much less detail will be required about operating costs than in previous years. Nevertheless, they will need to be separated into cost of importing electricity and oil (for on-island generation) - for which prices are driven by European and worldwide commodity markets and foreign exchange rates, and other costs. For the former, GEL will need to disclose its underlying assumptions about market prices which would provide the basis for any future cost pass through could be decided. For the remainder, it will need to set out clear efficiency targets in terms of the reduction in costs that will be achieved compared with previous years.

In addition, moving to from an *ex ante* price control to an *ex post* price review, will depend on GEL presenting appropriate proposals for the ring fencing of the save to spend reserve and ensuring that:

(i) future customer funds will be used for essential capital investment by the core business;
(ii) appropriate mechanisms are in place to ensure that there was no detriment to customers where their funds have previously been used to finance non-core activities; and

(iii) customer funds will be returned to the core business for essential investment projects prior to seeking additional increases from customers to finance new investment; and this is to include recovery of other investment reported in the core business, such as MCT and seafloor surveys, which were not intended to be financed by electricity customers;

That financing facilities agreed for the benefit of the core business, such as the recently announced facility from the States Treasury[8], (see Annex 2) will be used for the purpose of the core business, for the benefit of electricity customers, and not other activities.

Timetable & implementation

This timetable is based on the proposals for a typical year. For the initial implementation of the proposals it is likely that there would be some differences.

Phase	Timing	Milestone
preliminary	Nov/Dec	GEL shares its business plan with OUR
1. Notification and implementation	1 March	GEL publishes its price proposal with a statement setting out tariff changes & justification for the level of increase.
	1 April	Price changes implemented
2. Regulatory Review	June	OUR commences Review of prices
	July	GEL publishes Annual Report and Regulatory Accounts
	September (within 2 months of publication of regulatory accounts)	OUR completes review of tariff increase
3. Post Review adjustment (if required)	October	price changes revised and GEL return any excess charges to customers

For 2012, it is proposed that GEL publish its tariff proposals and accompanying information by 1 March. Subject to the results of this consultation, and the implementation of satisfactory proposals on ring fencing of the "save to spend" reserve the OUR will permit GEL to adjust its tariff on 1 April. GEL has also agreed to provide OUR with its business plan in January once it has been approved by its shareholder.

Consultation questions

The OUR is seeking responses to the following consultation questions:

Q1 Do respondents agree with this new approach?
Q2 Do respondents agree with the proposed timetable for implementation and review?
Q3 Are there any additional requirements to be taken into consideration in advance of moving to this approach?

[8] Billet d'Etat XXII, December 2011, States of Guernsey Budget Report for 2012, p26 s6.6; found at: http://www.gov.gg/ccm/policy-and-hr/billets--resolutions/2011/december/billet-detat-xxii-december-2011.en

5. Cost Pass Through

Cost Pass Through

The purpose of a Cost Pass Through (CPT) mechanism is to automatically pass on changes in certain costs, compared with the company's forecasts and assumptions, arising from factors over which it has no control. For Guernsey electricity, relevant changes would be to the cost of electricity imports, oil prices or significant fluctuations in exchange rates beyond those which any business could reasonably hedge. Changes to these prices are largely outside the company's control, driven by world and European energy and commodity markets and they may have an adverse impact on the business or deliver a windfall return.

The increased frequency of Price Reviews under the new approach will address to a large extent the previous issues in relation to Cost Pass Through. This raises a question as to whether a specific CPT mechanism will be needed in future. The Review of Regulation by RPI noted that an appropriate Cost Pass Through mechanism was an important part of the regulatory process and that it should be a simple, transparent process to implement. The OUR can see the case for a continued role for a Cost Pass Through mechanism to provide a swift response to significant changes in these costs compared with the company's forecasts and as a safeguard for the business and for customers between reviews and the usual process for price changes in April. In the interests of ensuring certainty for the company and its customers, the OUR proposes that any such mechanism adopted for 2012-13 and beyond operate transparently and symmetrically so that adjustments and their calculation are published and customers are able to benefit from reductions to the same extent that the business would be protected against increases in costs.

If, following this consultation, it is decided that there is a need for a CPT mechanism, it would be based on assessing changes in wholesale electricity costs and accompanying changes in exchange rates, against GEL's estimates or forecasts of these imports and a similar approach would be applied to oil costs. The OUR will work with GEL to put in place an appropriate and transparent mechanism to address any outstanding issues to the extent that they are not already addressed by the new approach. Where there is a material variation in the underlying cost of these imports, electricity tariffs would then be adjusted to enable the increase (or reduction) in costs to be passed on to customers.

Q4 Do respondents believe there is a continued need for a Cost Pass Through mechanism, and is the proposed approach appropriate?

6. Next Steps

There is at present a great deal of uncertainty about the future of electricity prices in Guernsey.

Whether prices increase or decrease in future will depend on a number of factors including the degree to which GEL is able to deliver efficiency savings across its business and the extent of the capital investment programme. In addition, but outside of the company's control is any shareholder or States decision about the financing mechanism for future investment. If the "Save to Spend" model remains, this is likely to put much greater upward pressure on customers bills (because it means customers must pay in advance for any future investment) than, for example, a more conventional approach in which a commercialised business would be allowed to access external investment (borrowing).

For 2012-13, the OUR has already agreed to allow a 2.5% April increase for cost pass through – the recovery of increased costs arising from higher import prices for electricity and oil which are driven by European or world commodity markets and outside the company's control. GEL has indicated it proposes to increase tariffs by a further 3%, bringing the increase from 1st April 2012 to 5.5%.

The OUR will consider, as part of the review process, whether any additional adjustment is needed to take account of 2011-12 Cost Pass Through, and the OUR will make this assessment once GEL has published its regulatory accounts for 2011-12 and other relevant information has been made available.

ANNEX 1

States Resolutions

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 30TH DAY OF SEPTEMBER, 2011

(Meeting adjourned from 29th September, 2011)

The States resolved as follows concerning Billet d'État No XV dated 19th August 2011

COMMERCE AND EMPLOYMENT DEPARTMENT

REVIEW OF UTILITY REGULATION

XIV.- After consideration of the Report dated 8th July, 2011, of the Commerce and Employment Department:-
1. To direct the Director General of Utility Regulation, by Ordinance, to follow the six principles for economic regulation set out in paragraph 5.11 of this Report and to take them into account in performing his statutory duties.

2. To direct the Director General of Utility Regulation, by Ordinance, to prepare a Memorandum of Understanding setting out formally the approach, process, practice and procedure, objectives, deliverables and measurements of success for future regulation of each States-owned utility, as described in paragraphs 5.14 and 5.15 of this Report.

3. To direct the Treasury and Resources Department as shareholder, acting as their representative, to follow the six principles of corporate governance set out in paragraph 6.6 of this Report and to take them into account in performing the shareholder representative role and, in particular, to report to the States as soon as practicable and no later than the March 2012 meeting in respect of progress made on agreeing a dividend policy.

4. That paragraph 4 of the States Guidance to Shareholders with respect to Guernsey Electricity, and paragraph 2 with respect to Guernsey Post be amended to read as appropriate:

a) Deliver improved efficiency in fulfilling the requirements of the Public/Universal Supply Obligation imposed under the regulatory regime

b) Achieve as soon as practicable an appropriate commercial return on the resources employed in the provision of services.

5. To direct that the "shareholder resource" concept be explored by the Policy Council's External Relations Group in its ongoing dialogue with Jersey and that the Policy Council bring a Report before the States by the end of September 2012.

6. That the review of the powers, duties, mandates, and effectiveness of the Scrutiny and Public Accounts Committees referred to in paragraph 7.11 should include consideration of

the most appropriate method of scrutinising the regulatory regime (including the responsibilities of the shareholder) on a regular basis.

7. To direct the Director General of Utility Regulation to produce and publish a three-year strategic plan along with an annual business plan detailing the actions proposed to be taken by the OUR in the subsequent year.

8. That the Post Office (Bailiwick of Guernsey) Law 2001 be amended to allow for the introduction of a Universal Service Fund, if it becomes necessary in future in order to fund the Universal Service Obligation for Postal Services.

9. That

a) the 2001 Direction to the Director General to review and revise the award of exclusive rights from time to time, with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service, should be rescinded.

b) That the States of Guernsey should determine any revisions to the exclusive rights having taken into account any advice and comments from the Director General of Utility Regulation.

10. That the legislation be amended to require all postal operators with specified de minimis exceptions to obtain a licence from the Office of Utility Regulation.

11. To:

a) Issue a States Direction to the Director General of Utility Regulation that an exclusive licence be issued to Guernsey Electricity for supply activities subject to any exemptions granted by the Director General under Section 1 (2) of the Electricity (Guernsey) Law, 2001 for the period ending 31st January 2022.

b) Issue a States' Direction to the Director General of Utility Regulation to issue to Guernsey Electricity an exclusive licence for conveyance activities, subject to any exemptions granted by the Director General under Section 1 (2) of the Electricity (Guernsey) Law, 2001 for the period ending 31st January 2022.

c) Direct the Director General of Utility Regulation that the exclusive licences set out in Directions (a) and (b) above should be replaced with exclusive licences for retail and network activities respectively when new legislation is enacted amending the nomenclature.

d) Direct the Commerce and Employment Department to monitor the development of the energy sector in the Channel Islands and bring forward a review of these arrangements by 31st January 2022 or sooner in the event of any material changes to the structure of the sector.

12. That:

a) The Articles of Incorporation of both Guernsey Post and Guernsey Electricity are amended to require the written authority of the States Treasury and Resources Department before registering an appeal against a decision of the Director General of Utility Regulation.

b) The time period for registering an Appeal against a decision by the Director General of Utility Regulation should be extended from 28 to 56 days (with power to the Courts to extend further in exceptional circumstances).

13. That:

a) The Regulation of Utilities legislation be amended to alter the organisational structure of the OUR, thereby replacing the role of the Director General of Utility Regulation with an executive director and independent Board.

b) Subject to the agreement of the Jersey Authorities, the Boards of the JCRA and OUR should comprise the same people, who in practice would operate as a single Board, while administering two separate sets of laws.

c) Once the Board has been established that that part of Resolution XIV 1 (f), Billet d'Etat X, 2006 related to the establishment of an Audit and Remuneration Committee should be rescinded and the Audit and Remuneration Committee shall be abolished.

14. To direct the preparation or amendment of such legislation as may be necessary in order to give effect to their above decision.

ANNEX 2

Extract from Billet d'Etat XXII of December 2011, States of Guernsey Budget 2012, pp 26-27.

Guernsey Electricity Limited – overdraft facility

6.6 Guernsey Electricity Limited has requested an overdraft facility of £5million for a four year period from 2012 with interest payable at the States Treasury rate. Guernsey Electricity Limited is facing significant capital expenditure over the new few years, particularly in 2012, in order to provide appropriate capacity and security of service for the island. This exceptionally high level of capital expenditure cannot be fully funded from existing reserves and it is not considered appropriate to substantially increase tariffs for a short period of time to fund assets which have a long expected useful life. Once this particular capital expenditure spike has passed, it is anticipated that, at least in the short-term, planned tariff evolution will be sufficient to repay the facility and fund capital expenditure requirements.

6.7 This overdraft facility might arguably be perceived as a short-term contravention of the assumed policy (although this has never been the subject of a States resolution) of "saving to spend" on capital expenditure. However, the Treasury and Resources Department is satisfied that this is appropriate in order that Guernsey Electricity Limited has an appropriate asset base without undue volatility in consumer tariffs. **It is recommended that the Treasury and Resources Department is authorised to make an overdraft facility of £5million available to Guernsey Electricity Limited for a four year period from 1st January 2012 with interest payable at the States Treasury rate.**