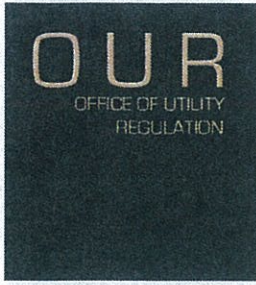




**ANNUAL REPORT  
2011**



# Office of Utility Regulation

18 April 2012

Deputy Carla McNulty Bauer  
Minister for Commerce and Employment  
Raymond Falla House  
Longue Rue  
St Martins  
Guernsey  
GY4 6AF

Dear Deputy McNulty Bauer,

I am pleased to submit this report on the activities of the Office of Utility Regulation for the period from 1 January 2011 to 31 December 2011.

In accordance with Section 8 of the Regulation of Utilities (Bailiwick of Guernsey) Law 2001, I would be grateful if you would present this report to the States of Guernsey.

Yours sincerely,



John Curran  
Director General

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# Director General's Report



I am pleased to submit the OUR's Annual Report for 2011 to the States of Guernsey.

During 2011 the OUR, along with our colleagues in the Jersey Competition Regulatory Authority (JCRA), made good progress on closer working between the two offices and the benefits of this are already significant. Aside from closer co-ordination of our regulatory work which has a very direct benefit for the companies we deal with, closer working is also allowing us to reduce our direct costs. Through greater co-ordination of our work, particularly in the telecoms sector, the companies we regulate should also see the cost to them of dealing with regulation fall over time.

The States of Guernsey in 2011 agreed to a change in the structure of the OUR, moving from the current 'director general' model to a board structure. The appointment of a board will strengthen the governance arrangements for the office. The planned appointment of the existing JCRA board as the OUR's board, with the addition of a Guernsey representative, should also deliver a consistent approach to regulation and competition issues across both islands.

The States of Guernsey also agreed to commence funding a competition law in Guernsey which is due to come into force in summer 2012, subject to the States of

Guernsey agreeing the legislation to enable this to happen. The OUR has worked closely with the Commerce & Employment Department and the Law Officers in Guernsey to align Guernsey's competition law with the law in Jersey. We will also look to adopt a common approach to dealing with mergers & acquisitions across both jurisdictions to make it easier for businesses to work with the law. The OUR intends to commence a programme of briefing sessions over the coming months for key industry groups to help raise awareness and understanding of key elements of the competition law and what it will mean for businesses and consumers.

For now our focus remains on regulating the utility sectors. The announcement in late 2011 by the UK Treasury that the 'Low Value Consignment Relief' (LVCR) is to be abolished with respect to the Channel Islands has raised significant concerns about the future of the fulfillment industry in both islands. The legal challenge mounted by the governments of both islands was unsuccessful and although leave to appeal has been granted, the postal sector will remain under pressure. The work Guernsey Post has undertaken to meet the OUR's efficiency targets is important in ensuring the company is able to deal with any significant curtailment in fulfillment activity in the Bailiwick.

The OUR for its part has proposed a number of measures to Commerce & Employment that we believe the States of Guernsey should adopt in order to help encourage bulk mailers to remain in Guernsey and potentially grow markets outside the UK. While we do not believe at this time there is a need to revisit the scope of the USO, there may be merit in assessing whether the delivery of the USO can be made more efficient, while still meeting the needs of postal customers.

In the telecoms sector, we remain committed to trying to get greater competition into all parts of the telecoms market. In 2011, a significant part of our work was focused on exploring options for more competition in the fixed line market. We recognise that a possible barrier to better pricing comes from the inability to change to an alternative

provider and during 2012 we are hopeful that progress on this will be made. We are also actively considering how spectrum might be made available to improve the competitive landscape in both the fixed and mobile markets.

In the electricity sector, following the review of regulation in 2011, we are implementing an alternative approach to regulating Guernsey Electricity. This involves a move away from the standard price control to one which allows the company to set its own prices which will then be reviewed by the OUR. We believe this approach best addresses the expectations of the States of Guernsey whilst still protecting consumers' interests. As part of the move to this approach, Guernsey Electricity will be required to demonstrate more transparently its justification for price changes including clearer targets for efficiency savings. It also puts more responsibility on the shareholder and the board of the company to demonstrate that it has effectively challenged the business to do all it can to keep charges as low as possible.

During 2011 the OUR was again supported in its work by the Audit, Risk and Remuneration Committee (ARRC). In 2012, as part of the

legislative changes being made, including the move to a board structure the ARRC will cease to exist. I would like to thank Mr Peter Woodward, Ms Jane Needham and Deputy Martin Storey for their support and guidance during 2011. The final report of the ARRC is included within this annual report.

I also wish to thank the staff at the OUR for their continued professionalism and support and for contributing to the success of the pan-Channel Island initiative with the JCRA. It is clear that closer working across the two islands can deliver real savings for both governments, for the companies we regulate and ultimately for consumers. It highlights the opportunity that exists across the Channel Islands to deliver public services in a way that is ultimately more effective and more cost efficient than is the case when done separately.



John Curran  
Director General

# The Guernsey Regulatory Environment

The States of Guernsey has set out the regulatory framework for telecommunications post and electricity sectors in various Laws and Orders that were made in 2001 and 2002. The States has also issued a number of Directions to the Director General of Utility Regulation that develop States policy in more detail. The OUR, which was established in 2001, is charged with implementing that policy and regulating in the best interests of the Bailiwick.

## Legislation

The principal piece of regulatory legislation is the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (as amended), which establishes the OUR, sets out the governing principles of the office and allows the States to assign further functions to the Office over time. Three other key laws are:

- The Telecommunications (Bailiwick of Guernsey) Law 2001;
- The Post Office (Bailiwick of Guernsey) Law 2001; and
- The Electricity (Guernsey) Law.

Where empowered to do so, the Director General has also introduced regulation and orders. Texts of all relevant legislation can be found on the OUR website at [www.cicra.gg](http://www.cicra.gg).

## States Directions

The Regulation Law provides that the States of Guernsey may give States Directions to the Director General on certain specific issues in each of the sectors.

Directions issued to-date have addressed issues such as the identity of the first licensee in each sector to be granted a licence with a universal service obligation, the scope of a universal service or minimum level of service that all customers in the Bailiwick must receive and any special or exclusive rights that should be granted to any licensee in any of the sectors.

The States debated and agreed policy direction in relation to all three sectors in 2001. The full texts of the directions that were in place in 2011 are included in Annexes A to C of this report, in accordance with Section 8 of the Regulation Law.



# The OUR Team

## **John Curran, Director General**

John has been Director General of Utility Regulation since February 2005 and in 2010 was also appointed as Executive Director of the Jersey Competition Regulatory Authority. He previously worked with the OUR when the office was first established in 2001. After a period as a regulatory advisor with the Australian telecoms incumbent Telstra John returned to the OUR in April 2003 as Director of Regulation. John has a strong background in regulation.



Before joining the OUR he worked for six years in communications regulation in Ireland. He began his career in the Irish Civil Service upon graduating from the Galway Institute of Technology. John also holds a Diploma in Company Direction from the IoD.

## **Michael Byrne, Director of Regulation**

Michael joined the OUR in June 2005 as Director of Regulation. Michael has led work across a variety of projects in all three sectors, in particular in the energy and telecoms sectors. Prior to joining the OUR, Michael was head of Retail Competition at Ofgem in the UK. He led case investigations across various aspects of the UK energy sectors. He has worked in commercial television regulation and as a consultant, specialising in the dairy manufacturing industry. He has a BSc Honours degree in Mathematics, Statistics and Economics from the University of Natal. He also has a post-graduate diploma in Competition Policy, an MBA from the University of Warwick and a Diploma in Company Direction from the IoD.



## **Jeanne Golay, Head of Regulatory Policy**

Jeanne joined the OUR in June 2010 after 13 years as Economic Regulation Advisor for Water UK, the industry association for the water companies in the UK. Prior to this Jeanne worked for the UK Post Office Group Planning department and as an accountant managing the Post Office £300m capital budget. She has also worked in the gas industry as an Ofgas director and in the telecommunications and transport sectors for Coopers & Lybrand. She has economics and law degrees from the University of Lausanne, a Masters in Science from the London School of Economics and a diploma in European competition law from King's College, University of London.





**Jonathan Tooley, Head of Policy and Consumer Affairs**

Jonathan joined the OUR in October 2010. He has worked across the utilities sector and has extensive experience of energy markets and economic regulation. Jonathan began his career at Ofwat where he worked in a range of areas and led work on operating cost analysis and efficiency assessment before becoming Head of Economic Regulation at Northumbrian Water.



He subsequently moved to the energy sector, working on electricity and gas market trading and risk analysis, developing hedging strategies for structured contracts and energy derivatives. His experience of electricity generation ranges from large scale coal and nuclear to small scale oil and renewables. Prior to joining the OUR Jonathan headed the Strategic Assets team at British Energy. He has a first degree in Physics and a Masters in Environmental Management.

**Lisa White, Office Manager**

Lisa joined the OUR in December 2011. She manages the office and provides administrative support. Lisa was born and educated in Guernsey and was previously a legal PA for 10 years during which time she gained a diploma for Legal Secretarial and Personal Assistants.





# Activity Report

Under the Regulation of Utilities (Guernsey) Law, 2001, the Director General has a duty to promote, and where they conflict, to balance, objectives that underpin the work of the OUR. The following report outlines the Office's duties as set out on Section 2 of the Regulation Law 2001 and some of the initiatives undertaken in 2011 in performing these duties.

## Duties

To protect the interests of consumers and other users in the Bailiwick in respect of prices charged for and the quality, service levels, permanence and variety of utility services.

## Performance

The OUR set a new price control for Guernsey Post's prices for the three years from April 2011 to April 2014. As part of the decision, Guernsey Post will look to implement a £3million programme of operating cost savings. Guernsey Post will also be allowed greater freedom to adjust tariffs during the period of the price control.

At Guernsey Electricity's request, the OUR set a one year price control for its tariffs with effect from April 2011. As a result Guernsey Electricity was allowed to increase its prices by up to 6.5% from April 2011. Tariffs were further increased by 2.5% in October 2011 to allow the company to recover outstanding pass through costs.

The OUR also extended the price control for Cable & Wireless Guernsey for one year. The OUR, in conjunction with the JCRA in Jersey, is working on the introduction of further competition into the fixed market and it was felt that a one year price control was more proportionate.

## Duties

To secure, as 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.

## Performance

The OUR continued working on seeking to ensure greater competition in the fixed telephony market in Guernsey through the Wholesale Access Project. The OUR is examining ways in which more innovative services and lower prices might be enabled by greater access to the existing fixed telephony network by operators other than Cable & Wireless Guernsey. It is expected that this project will continue through 2012.

**Duties**

To ensure utility services 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.

**Duties**

To introduce, maintain, and promote effective and sustainable competition in the provision of utility services in the Bailiwick, subject to any special of exclusive rights awarded to a licensee by the Director General pursuant to States' Directions.

**Duties**

To improve the quality and coverage of utility services and to facilitate the availability of new utility services within the Bailiwick.

**Duties**

To lessen, where practical, any adverse impact of utility activities on the environment.

**Performance**

The OUR strengthened its collaboration with the JCRA with the objective of rationalising and aligning the existing allocations of radio frequencies to telecoms operators in Jersey and Guernsey. This will increase efficiency and facilitate the future allocation of the digital dividend — the radio spectrum that is becoming available for telecommunication services following the move to digital broadcasting. To date, the OUR and JCRA have obtained agreement from all operators in the two islands to the re-alignment of spectrum allocations in the 2.1 GHz band and to the principles that should inform further re-alignments in 2012 and beyond.

**Performance**

The OUR developed a new licence for mobile operators which is the culmination of its review of mobile licensing which started in 2009. All mobile operators are now subject to the same licence conditions. This review was aimed at promoting fair competition and reducing the regulatory reporting obligations on operators. The new mobile licence also increases technology neutrality so that operators can be more efficient in choosing how they provide their services.

**Performance**

The OUR worked with that States of Guernsey and counterparts in Jersey to develop the legislative and regulatory framework necessary to the expansion of the islands' wireless communication services with Fourth Generation Networks. These depend on the availability and effective allocation of the radio spectrum previously used by analogue broadcasting and made available by the move to digital broadcasting. Further joint work with the States of Guernsey and Ofcom (the UK regulator) is expected in 2012.

**Performance**

The obligations on telecom operators to share masts are now firmly entrenched in any expansion of mobile networks through licence conditions. During 2011, the OUR also participated in the development of the States of Guernsey Energy Policy.

# Report of the Director General and Financial Statements for the Year Ended 31 December 2011 for the Public Utilities Regulation Fund

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## Fund Information for the Year Ended 31 December 2011

Director General:	Mr J Curran
Office Address:	Suites B1 & B2 Hirzel Court St Peter Port Guernsey GY1 2NH
Auditors:	Grant Thornton Limited PO Box 313 Lefebvre House Lefebvre Street St Peter Port Guernsey GY1 3TF



## **Public Utilities Regulation Fund**

### **Report of the Director General for the Year Ended 31 December 2011**

The Director General presents his report with the financial statements of the Fund for the year ended 31 December 2011.

#### **Principal Activity**

The principal activity of the Office of the Director General in the year under review was that of a utilities regulator.

#### **Review of Business**

The results of the year and the financial position of the Fund are as shown in the annexed financial statements.

#### **Statement of the Director General's Responsibilities**

The Director General is responsible for preparing the financial statements for each financial year which give a true and fair view of the state of affairs of the Fund and of the surplus or deficit of the Fund for that period. In preparing those financial statements the Director General is required to:

- Select suitable accounting policies and then apply them consistently;
- Make judgements and estimates that are reasonable and prudent; and
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Fund will continue in operation.

The Director General is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Fund and to ensure that the financial statements comply with the applicable accounting standards. The Director General is also responsible for safeguarding the assets of the Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

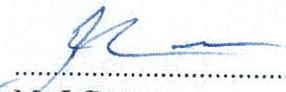
In accordance with Section 13 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General shall keep all proper accounts and records in relation to those accounts and shall prepare in respect of each year a statement of account giving a true and fair view of the state of affairs of the Office of the Director General.

The Law also requires the Director General to have the accounts audited annually by auditors appointed with the approval of the Department of Commerce and Employment. The Director General, with the approval of the Department of Commerce and Employment, has appointed Grant Thornton Limited as the auditors of the Public Utilities Regulation Fund.

The audited financial statements shall be submitted to the Department of Commerce and Employment which shall in turn submit them together with the auditors' report thereon to the States of Guernsey with the Director General's annual report.

#### **AUDITORS**

The auditors, Grant Thornton, have indicated their willingness to continue in office.

  
.....  
Mr J Curran  
Director General of Utility Regulation

Dated: 18 April 2012

## **Report of the Independent Auditors to the Director General of the Public Utilities Regulation Fund**

We have audited the financial statements of Public Utilities Regulation Fund for the year ended 31 December 2011 which comprise the Income and Expenditure Account, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and Financial Reporting Standards for Smaller Entities (effective April 2008) (United Kingdom Generally Accepted Accounting Practice Applicable to Smaller Entities)

This report is made solely to the Office of the Director General in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. Our audit work has been undertaken so that we might state to the Fund's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Fund and the Office of the Director General as a body, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of the Director General and Auditors**

As described in the Statement of the Director General's Responsibilities on page 12, the Director General is responsible for the preparation of financial statements and for being satisfied that they give a true and fair view.

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable legal and regulatory requirements and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Director General; and the overall presentation of the financial statements.

In addition, we read all the financial and non-financial information in the Report of the Director General to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### **Opinion**

In our opinion the financial statements:

- give a true and fair view of the state of the Fund's affairs as at 31 December 2011 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice Applicable to Smaller Entities; and
- have been properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

### **Matters on which we are required to report by exception**

We have nothing to report in respect of the following matters where we are required to report to you, if in our opinion:

- the Fund has not kept proper accounting records; or
- the financial statements are not in agreement with the accounting records; or
- we have not received all the information and explanations, which to the best of our knowledge and belief, are necessary for the purposes of our audit.

*Grant Thornton Limited*

Grant Thornton Limited  
PO Box 313  
Lefebvre House  
Lefebvre Street  
St Peter Port  
Guernsey  
GY1 3TF

Date: *18 April 2012*

**Public Utilities Regulation Fund**

**Income and Expenditure Account**  
**for the Year Ended 31 December 2011**

	Notes	2011 £	2010 £
<b>INCOME</b>			
Licence fees		826,612	680,458
Bank interest		<u>5,146</u>	<u>2,757</u>
		831,758	683,215
<b>EXPENDITURE</b>			
		<u>(647,108)</u>	<u>(949,118)</u>
<b>SURPLUS / (DEFICIT) FOR THE YEAR ENDED 31 DECEMBER 2011</b>			
		184,650	(265,903)
<b>TRANSFER (TO) / FROM CONTINGENCY RESERVE</b>	7	<u>(184,650)</u>	<u>265,903</u>
<b>NET OPERATING RESULT FOR THE YEAR</b>			
		<u><u>-</u></u>	<u><u>-</u></u>

The Fund has no other gains or losses for the current or preceding financial year other than those stated in the Income and Expenditure Account.

The results for the year relate to continuing operations.

The notes on pages 16 and 17 form part of these financial statements

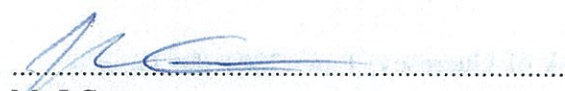


## Public Utilities Regulation Fund

### Balance Sheet 31 December 2011

	Notes	2011 £	2010 £
<b>FIXED ASSETS</b>			
Tangible assets	4	8,425	6,741
<b>CURRENT ASSETS</b>			
Debtors	5	41,959	20,967
Cash at bank and in hand		<u>449,547</u>	<u>382,473</u>
		491,506	403,440
<b>CREDITORS</b>			
Amounts falling due within one year	6	27,119	122,019
<b>NET CURRENT ASSETS</b>		<u>464,387</u>	<u>281,421</u>
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		<u>472,812</u>	<u>288,162</u>
<b>RESERVES</b>			
Contingency reserve	7	<u>472,812</u>	<u>288,162</u>

The financial statements were approved on 18 April 2012 and were signed by:

  
.....  
Mr J Curran  
Director General of Utility Regulation

The notes on pages 16 and 17 form part of these financial statements

## **Public Utilities Regulation Fund**

### **Notes to the Financial Statements** **for the Year Ended 31 December 2011**

#### **1. ACCOUNTING POLICIES**

##### **Accounting convention**

The financial statements have been prepared under the historical cost convention and in accordance with United Kingdom Generally Accepted Accounting Practice.

##### **Income**

Income represents net invoiced licence fees and is accounted for on an accruals basis.

##### **Tangible fixed assets**

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life.

Office equipment	- 20% on cost
Fixtures and fittings	- 20% on cost
Computer equipment	- 20% on cost
Website	- 33.3% on cost

#### **2. NET OPERATING RESULT**

The net operating result is stated after charging:

	2011	2010
	£	£
Depreciation - owned assets	5,567	4,952
Auditors & accountants' remuneration	<u>7,638</u>	<u>6,540</u>

#### **3. TAXATION**

Under Section 12 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 the Fund is exempt from Guernsey Income Tax.

## Public Utilities Regulation Fund

### Notes to the Financial Statements - continued for the Year Ended 31 December 2011

#### 4. TANGIBLE FIXED ASSETS

	Office equipment £	Fixtures and fittings £	Computer equipment £	Website costs £	Totals £
<b>COST</b>					
At 1 January 2011	31,907	3,265	26,948	-	62,120
Transferred	(799)	-	799	-	-
Additions	-	-	3,126	4,125	7,251
Disposals	-	-	<u>(9,892)</u>	-	<u>(9,892)</u>
<b>At 31 December 2011</b>	<u>31,108</u>	<u>3,265</u>	<u>20,981</u>	<u>4,125</u>	<u>59,479</u>
<b>DEPRECIATION</b>					
At 1 January 2011	28,933	3,265	23,181	-	55,379
Charge for year	1,322	-	3,787	458	5,567
Eliminated on disposal	-	-	<u>(9,892)</u>	-	<u>(9,892)</u>
<b>At 31 December 2011</b>	<u>30,255</u>	<u>3,265</u>	<u>17,076</u>	<u>458</u>	<u>51,054</u>
<b>NET BOOK VALUE</b>					
At 31 December 2011	<u>853</u>	<u>-</u>	<u>3,905</u>	<u>3,667</u>	<u>8,425</u>
At 31 December 2010	<u>2,974</u>	<u>-</u>	<u>3,767</u>	<u>-</u>	<u>6,741</u>

#### 5. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2011 £	2010 £
Accrued interest	1,984	77
Other debtors and prepayments	<u>39,975</u>	<u>20,890</u>
	<u>41,959</u>	<u>20,967</u>

#### 6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2011 £	2010 £
Trade creditors	6,070	55,721
Deferred income	1,000	23,771
Other creditors	<u>20,049</u>	<u>42,527</u>
	<u>27,119</u>	<u>122,019</u>

#### 7. CONTINGENCY RESERVES

Any surpluses or deficits in the Income and Expenditure Account are either transferred to or from the contingency reserve.

	£
At 1 January 2011	288,162
Movement in the year	<u>184,650</u>
At 31 December 2011	<u>472,812</u>



**Public Utilities Regulation Fund**

**Detailed Income and Expenditure Account  
for the Year Ended 31 December 2011**

	2011		2010	
	£	£	£	£
<b>INCOME</b>				
Post office revenue	180,000		160,000	
Telecoms revenue	466,612		360,458	
Electricity revenue	180,000		160,000	
Other income	-		-	
		826,612		680,458
<b>Other income</b>				
Bank interest		5,146		2,757
		831,758		683,215
<b>EXPENDITURE</b>				
General overheads	121,494		94,631	
Salaries & staff costs	450,556		413,066	
Consultancy fees	51,744		297,431	
Legal costs	3,640		124,354	
Auditors & accountancy fees	7,638		6,540	
ARRC fees	6,411		8,000	
		(641,483)		(944,022)
<b>Finance costs</b>		190,275		(260,807)
Bank charges		(58)		(144)
		190,217		(260,951)
<b>Depreciation</b>				
Office equipment	1,322		1,527	
Fixtures and fittings	-		57	
Computer equipment	3,787		3,368	
Website costs	458		-	
		(5,567)		(4,952)
<b>SURPLUS / (DEFICIT) FOR THE YEAR</b>		<u>184,650</u>		<u>(265,903)</u>

# Audit Risk and Remuneration Committee

## Chairman's Report

The Committee continued to work under the terms of the 31 March 2007, The Projet de Loi entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, passed by the States of Guernsey. Section 6 of that Law introduced a new section 13A to the 2001 Law which set out the formal establishment of the Audit, Risk and Remuneration Committee.

The membership of the committee in 2011 was

- Mr Peter Woodward (Chairman)
- Deputy Martin Storey
- Ms Jane Needham

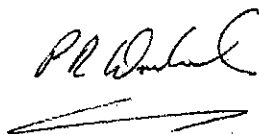
All members were considered to be independent of the OUR.

The committee met formally on four occasions in 2011 and carried out the following specific activities.

- Reviewing areas of potential risk and monitoring the implementation of agreed risk management actions.
- Reviewing the Financial Statements of the Public Utilities Regulation fund for 2010 and discussing the results thereof with the external auditors
- Meeting the external auditors to monitor their independence and to confirm the nature, scope, fees and timetable for the audit of 2011
- Monitoring and approving the recruitment and remuneration of staff
- Recommending, as required, improvements to employment contracts and the staff handbook and monitoring implementation
- Submitted formal feedback on the RPI report including inputs on Shareholder and Governance issues, the Adjudication Panel Proposal and provided other relevant commentary
- Reviewed current and planned workloads on a periodic basis and offered advice if applicable
- Gave inputs to the Commerce and Employment Department on the future governance of the OUR in light of the potential establishment of a pan-Channel Islands competition / regulatory authority

The Committee were pleased that their reviews, meetings and plans all produced positive results and thank the Director General and his staff for their co-operation and assistance throughout the year. The total annual costs of the committee were less than £7,000.

In light of the imminent formation of a pan-Channel Island board the current members of the Audit Risk and Remuneration Committee stood down at the end of 2011.



Peter Woodward  
Chairman

# OUR Corporate Governance

In 2005, the OUR established an independent Audit, Risk and Remuneration Committee (ARRC) and in May 2006 the States formally agreed a Resolution requiring its establishment.

The OUR complies with a very high standard of controls and the OUR's annual accounts are externally audited. The OUR's ARRC provides further independent scrutiny of the controls in place within the OUR.

The members of the OUR ARRC during 2011 were:

- Mr Peter Woodward (Chairman)
- Deputy Martin Storey
- Ms Jane Needham

The following sets out the instruction to the ARRC.

## **OUR Audit, Risk and Remuneration Committee Terms of Reference**

The following sets out the terms of reference of the OUR's Audit, Risk and Remuneration Committee (ARRC) as agreed by the Director General and the ARRC.

### **Role of the Committee:**

The role of the ARRC will be, as part of the ongoing, systematic review of the control environment and governance procedures within OUR to;

- oversee the external and internal audit function and advise the Director General in relation to the operation and development of that function;
- review and advise on the Office's risk management procedures;
- review and comment on the financial accounts of the Office; and
- review and comment on the remuneration policy of the OUR.

### **Membership**

The ARRC will be appointed by the Director General with the approval of the Commerce and Employment Department and will consist of not more than four people, who shall be external appointees. One of the four will be appointed by Commerce and Employment.

### **Duties**

The duties of the ARRC shall be:

- to approve and keep under review the Charter for Internal Audit services so as to ensure that it clearly defines the purpose, authority, roles and reporting relationships for internal audit;
- to review and approve the work programme for internal audit;
- to request the inclusion in the programme of Internal Audit reports as considered appropriate;
- to assess the outcome of the internal and external audit processes having regard to findings, recommendations and management responses;
- to assess the implementation of agreed corrective actions by management having regard to follow up audits;
- generally to foster the development of best practice in the conduct of internal audit, risk management and external reporting;
- to advise the Director General on all matters relating to risk management, internal control, governance, external financial reporting and remuneration; and
- to advise on and review the membership of the ARRC as necessary.

### **Annual Report of the External Auditors**

The ARRC will consider any report issued by the external auditors.

### **Meetings**

ARRC meetings will be held not less than twice each calendar year.

A quorum of two will be required for each meeting. The members shall decide on the appointment of the Chairperson. The Chairperson's appointment shall expire on 31 December 2011.

The ARRC may request any person who has been contracted to carry out an internal audit assignment to attend a Committee meeting. The Director General shall attend on the invitation of the ARRC. The ARRC will also have the authority to request staff members to attend meetings if necessary.

At least once a year, the ARRC will invite the external auditor to meet them to discuss matters of mutual interest including the audit approach.

The OUR will provide such administrative support to the ARRC as it may require.

### **Working Procedures**

The ARRC will adopt its own working procedures.

### **Access**

Any member of the ARRC will have right of access to the Director General and/or any staff member.

### **Reporting**

The ARRC will formally report to the Director General and will offer such advice and recommendations as it may deem appropriate. The ARRC's activities will be recorded and reported in the Annual Report of the Director General.

The ARRC may report to any States Department or States Committee, including the Public Accounts Committee and the Scrutiny Committee.

### **Access to Independent Advice**

The ARRC is authorised to:

- investigate any activity within its terms of reference;
- seek any information that it requires from any employee or external party, and all employees are directed to co-operate with any request made by the Committee; and
- obtain outside legal or other independent professional advice.

### **Amendment of Charter**

This Charter may be amended or updated in joint consultation between the Director General and the ARRC. It shall be reviewed by 31<sup>st</sup> December 2008 and thereafter as required.



## **Internal Audit Charter**

### **Introduction**

This Charter sets out the purpose, authority and responsibilities of OUR's Internal Auditor. It is intended that internal audit assignments will be outsourced to an appropriate, qualified, third party and conducted under contract.

### **Purpose**

The Internal Audit function is an independent appraisal function established to examine, evaluate and report on the adequacy and effectiveness of the OUR's systems of financial internal control. As such, it provides management and stakeholders with assurance over the financial management of the Office of Utility Regulation, and stewardship of the resources entrusted to it.

### **Authority**

Internal Audit is authorised to have:

- unrestricted access (subject to the comments below) to all functions, records, property and personnel;
- full and free access to staff, the Audit Committee and the Director General;
- authority to require and receive such explanations from any employee as are necessary concerning any matter under examination; and
- sufficient resources and personnel with the necessary skills to perform the internal audit plan.

Access to confidential commercial information is permitted for the purpose of carrying out an internal audit solely in respect of enabling the auditors to ascertain that the Director General has carried out his functions as provided for within sections 2 and 4 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the various sector specific laws and States Directions to the Director General. Access will not be given to confidential information unless it can be proven that its intended purpose falls within scope of the internal audit role.

Internal Audit is not authorised to perform any operational duties or initiate or approve accounting transactions.

### **Role and Scope**

The primary responsibility for identifying and implementing an adequate system of internal control rests with the Director General. The role of internal audit is to appraise the adequacy and effectiveness of those controls.

In particular, its role is to understand the key financial risks of the organisation and to examine and evaluate the adequacy and effectiveness of the system of risk management and financial control as operated by the organisation so as to ensure that:

- the systems of financial control, and their operation in practice, are adequate and effective;
- follow-up action is taken to remedy weaknesses identified by Internal Audit;
- employees and organisation actions are in compliance with policies, standards, procedures and applicable laws and regulations; and
- the corporate governance arrangements of the organisation are appropriate to the organisation and comply with relevant requirements.

# Annex A: States Directions; Telecommunications

## ***Scope of Universal Service Obligation (USO)***

The States resolved to give the following direction to the Director General in accordance with Section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*All users in the Bailiwick shall have available to them the services set out below at the quality specified, independently of geographical location and, in the light of local and national conditions, at an affordable price:*

### ***Access at Fixed Locations:***

- all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location shall be met by at least one operator;*
- the connection provided shall be capable of allowing users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit Internet access;*

### ***Directory enquiry services and directories:***

- at least one subscriber directory covering all subscribers of direct public telephone service providers shall be made available to users and shall be updated regularly and at least once a year;*
- at least one telephone directory enquiry service covering all listed subscribers' numbers shall be made available to all users, including users of public pay telephones;*

### ***Public Pay telephones:***

- public pay telephones shall be provided to meet the reasonable needs of users in terms of the geographical coverage, the number of telephones and the quality of services.*

### ***Special measures for disabled users and users with special needs:***

- these provisions shall also apply to disabled users and users with special social needs, and specific measures may be taken by the Regulator to ensure this.*

### ***Identity of First Licensee with USO***

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.*

### ***Special or Exclusive Rights***

The States resolved to give the following direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*In accordance with section 3(1)(b) of that Law, the States directs the Regulator to decide the duration of any exclusive or special privilege granted to any licensee in relation to the provision of telecommunications networks and/or services with a view to ensuring that competition is introduced into all parts of the market at the earliest possible time.*

*The Regulator may decide on different terms for privileges granted in different markets or segments of the market. In any case, the States directs that the term of any such rights shall not exceed three years at most from the date of this Direction.*

# Annex B: States Directions; Post

## ***Universal Service Obligation***

The States resolved to give the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:*

- *One collection from access points on six days each week;*
- *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- *Collections shall be for all postal items up to a weight of 20Kg;*
- *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- *Services for registered and insured mail.*

*In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.*

*“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.*

## ***Identity of First Licensee with a USO***

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.*

## ***Post: Special or Exclusive Rights***

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States' directions under section 3 (1)(c) of that Law; and

To request 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.

# Annex C: States Directions; Electricity

## ***Universal Service Obligation (“Public Supply Obligation”)***

The States did not make any Directions in relation to a Universal Service Obligation in the electricity markets, as it noted that the provisions of the Electricity Law adequately protected the interests of users by ensuring a Public Supply Obligation would be in place.

## ***Identity of First Licensee with a USO***

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.*

## ***Special or Exclusive Rights***

### **Conveyance**

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.

Subsequently, the States resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd 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 31 January 2012.

### **Generation**

The States made no resolution giving a direction to the Director General in relation to the period of exclusivity of any generation licence to be granted under the Electricity (Guernsey) Law, 2001.

### **Supply**

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.

The States also resolved to request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.

The States subsequently resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd 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 31 January 2012.