



Office of Utility Regulation

Electricity Licence Conditions

Consultation Paper

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Office of Utility Regulation

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Electricity Licence Conditions Consultation Paper

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Appendix 1: Electricity Licence, Explanatory Note on Conditions

Appendix 2: Pro Forma Electricity Licence

1. Introduction

The Director General Designate of the Office of Utility Regulation ("the Director General") is currently preparing licence terms and conditions that will apply in the electricity sector in Guernsey from 1st October 2001. The framework within which these conditions are being developed includes:

- Legislation approved by the States and due to be commenced in October 2001¹,
- Expected States Directions to the Director General in relation to the provision of a universal electricity supply, the extent of competition in the electricity sector, and the identity of the first licensee in the electricity sector to have a public supply obligation².

Under the legislative proposals currently being put in place, it is intended to transform the States of Guernsey Electricity Board ("Guernsey Electricity") into a States Trading Company on 1 October 2001. At the same time, with the commencement of the Electricity (Guernsey) Law, 2001, Guernsey Electricity will no longer be authorised to provide electricity services under the Loi relative à la Fourniture de l'Electricité par les Etats, 1933. Therefore it will be necessary for licence terms and conditions to be in place in time to issue licences to Guernsey Electricity if it is to be authorised to generate, convey and supply electricity from 1st October 2001.

This document sets out proposed licence terms and conditions that are likely to apply to Guernsey Electricity after 1st October 2001 and seeks comments from interested parties.

This document does not constitute legal, technical or commercial advice; the Director General is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the Director General to regulate the market generally.

2. Structure of the Paper

This paper is structured as follows:

- Section 3 details the consultation procedure and timetable;
- Section 4 provides an overview of the proposed licences conditions;
- Section 5 provides more detail on certain specific conditions on which comments are invited;
- Appendix 1 presents a table setting out each condition and its purpose;

¹ The Regulation (Bailiwick of Guernsey) Law, 2001 (Billet d'Etat No. 1, 2001), and the Electricity (Guernsey) Law, (Billet d'Etat No. XII, 2001).

² The Director General understands that the States of Deliberation will consider States Direction in the Electricity Sector at its meeting in September 2001.

- Appendix 2 sets out a draft pro forma electricity licence including terms and conditions;

Respondents are requested to comment on the proposed terms and conditions as set out in Appendix 2, and on the purpose of the conditions as described in Appendix 1.

Respondents are also requested to respond to the questions set out in sections 4 & 5 in relation to the completeness of the conditions, their appropriateness and whether they achieve the stated objectives.

When responding to this consultation paper, interested parties may wish to consider the issues set out in the following related papers:

OUR01/07: Electricity in Guernsey; Licensing Framework – Consultation Paper

OUR01/09: Proposed Decisions under the Electricity (Guernsey) Law, 2001 – Consultation Paper

3. Consultation Procedure and Timetable

The consultation period will run from Thursday 16th August to Thursday 6th September, 2001. Written comments should be submitted before 5.00pm on September 6th to:

Office of Utility Regulation
Suite B1 & B2,
Hirzel Court,
St. Peter Port,
Guernsey GY1 2NH.

Email: info@regutil.gg

All comments should be clearly marked “Comments on Electricity Licence Conditions Consultation Document”

All comments are welcome, but it would make the task of analysing responses easier if comments reference the relevant question numbers from this document. In line with the policy set out in Document OUR01/01 – “Regulation in Guernsey; the OUR Approach and Consultation Procedures”, the Director General intends to make responses to the consultation available for inspection. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential.

The Director General regrets that she is not in a position to respond individually to the responses to this consultation, but she proposes to issue a report on the consultation, including published licence terms and conditions in September.

4. Proposed Licences - Structure

In preparing the draft licence terms and conditions, the Director General has taken account of the market structure where there is one incumbent operator with a very strong position for historic reasons (Guernsey Electricity) and the potential for new entrants to come into some parts of the market. In this structure it is important to balance the regulatory obligations that Guernsey Electricity will need to comply with in order to ensure a competitive market develops where possible, with the need for Guernsey Electricity itself to be able to operate in a commercial way.

At the same time, there is a need to recognise the changing nature of energy sectors around the world generally and ensure that the licences contain sufficient flexibility to cope with those changes. In particular the Director General expects to consider the issue of introduction of competition into the supply market and it is important that the Licence terms and conditions facilitate this. Therefore the licence is structured to match the three primary activities of generation, conveyance and supply of electricity and set out the high level obligations that the company will be required to comply with. In many cases, more specific detail will be developed by the OUR in consultation and co-operation with Guernsey Electricity, other market players and interested parties as appropriate.

It is the Director General's view that this approach will provide the flexibility to ensure that the needs of the Guernsey market can be met by tailoring the regulatory regime to meet the demands of a small island economy, while at the same time providing certainty and clarity as to the regulatory rules.

The table below summarises the conditions contained in the draft licence. Section 5 contains more detail on key conditions.

Condition	Comment
1	Sets out the definitions which in turn define the scope of the licence.
2 – 12	Sets out the scope and the characteristics of the Licence, the provisions relating to enforcement and the terms and conditions relating to suspension, revocation, renewal or modification of the licence.
13 – 14	Conditions designed to ensure fair competition in the market and prevent any misuse of data.
15 – 20	Conditions relating to retail price control, cross subsidies, separate accounts, selling practices, undue preference and unfair discrimination. These conditions will apply to operators who are found to be dominant in a relevant market.
21 – 24	Conditions specific to those licensed to generate electricity. These cover issues such as service levels, compliance with technical and operational codes and the central despatch and merit order system.
25 – 35	Conditions specific to those licensed to convey electricity. These conditions cover issues such as service levels, compliance with technical and operational codes, connection to the conveyance system, the setting of charges, provision of information, dispute resolution, system capacity management, the central despatch and merit order system and the economic purchasing of electricity

	and ancillary services.
36 – 53	Conditions specific to those licensed to supply electricity to the public. These conditions cover service levels, compliance with technical and operational codes, security and safety of supply, information relating to theft, damage or meter interference, consumption information for customers, the preparation of various codes of practice, additional consumer protection issues and the establishment of a Users Council.

Q 4.1: Do Respondents consider that this range of conditions covers all relevant matters? If not, what additional conditions should be included and why?

Q 4.2: Do respondents consider that there are any conditions in this draft licence that are unnecessary? If so, which ones and why?

5. Significant Terms and Conditions

This section describes in more detail, some of the more complex terms and conditions that are included in the draft licence.

In particular, it describes certain conditions that it is proposed to include in relation to control of a dominant position (Section 5.1), regulation of prices of dominant operators (Section 5.1) and quality of service (Section 5.2). These conditions are of relevance to those parties responding to the related consultation paper OUR01/09: Proposed Decisions under the Electricity (Guernsey) Law, 2001.

5.1. Conditions to be included in licences to be granted to Dominant Operators.

Document OUR 01/09 contains notice of the Director General’s proposed decision under Section 5(4)(a) of the Electricity Law, that Guernsey Electricity has a dominant position in certain relevant markets, and notice of her decision to include conditions in its licence to control that dominant position and conditions to regulate its prices, premiums and discounts. This paper provides greater detail on the relevant Licence Conditions.

Dominant Operator (Conditions 15 – 20)

Subject to the Director General’s final decision following consideration of comments in response to Document OUR 01/09, Guernsey Electricity will be the only operator in the generation, conveyance and supply markets to have been found to be dominant in those markets. Therefore this group of conditions will apply only to Guernsey Electricity in the first instance. Over time, if other operators are dominant in the marketplace, similar conditions may be applied to them. Where an operator has such a position, it has advantages over other operators, including the advantage of having a ubiquitous network throughout the Bailiwick, a billing relationship with customers and an existing high profile in the market. This group of conditions are designed to ensure that this advantage is not abused or used unfairly to the detriment of competition or of customers.

The conditions are an important element of the new competitive regime as they provide transparency and clarity to new entrants as to how Guernsey Electricity is required to behave in the market, for example there is an obligation on Guernsey Electricity not to discriminate between licensees. This section also includes conditions relating to the control of retail tariffs charged by Guernsey Electricity, publication of discounts and tariffs and the requirement not to engage in anti-competitive behaviour.

Q 5.3.1: Do Respondents consider these conditions provide adequate protection against the possibility of abuse of a dominant position by a dominant licensee? Do you have any suggested additions, deletions or amendments and if so why?

5.2. Service Levels and Quality of Service Conditions

Service Levels (Condition 22, 26 & 37)

As there are different types of licensees envisaged under the new licensing regime, there will be different requirements with regard to the level of service each different type of licensee will be required to provide. However in each of the three cases of generation, conveyance and supply, the proposed licence conditions include a requirement to prepare explicit plans and statements of service levels. This is to ensure that the operation and maintenance of the network and services of the major player in the market continues at a sufficiently high level to meet the reasonable needs of the users of the service. The condition also seeks to ensure that the Director General receives sufficient information to monitor the company's network and service development. Further, given that it can be expected that the licensee will be providing wholesale services to new entrants who in turn will seek to provide services to end users, reassurance that sufficient network is being provided to meet such needs will be important.

Q 5.2.1: Do Respondents consider this condition is appropriate to each of the three licensed areas (generation, conveyance and supply) and helps to safeguard the interests of electricity consumers and competitors within a commercial but not fully competitive market? If not please give your reasons and suggest alternatives.

Consumer Protection (Conditions 40 - 51)

Protecting the interests of consumers is a core function of the OUR. As the majority of customers in Guernsey rely on Guernsey Electricity, and will continue to rely on it as a Public Supply Licensee, for their supply of electricity, the Director General believes it is important to ensure that the public supply licence contains adequate conditions to safeguard consumers. Conditions 40 to 51 require the licensee to develop a range of codes that are designed to address customer needs, including quality service, meter reading, rectifying service in the event of disruption, and dealing with complaints from users in a speedy and efficient manner etc.

Q 5.2.2: Do Respondents consider this approach balances the needs of consumers and the duties of Licensees appropriately? If not please suggest alternative ways of achieving consumer confidence and high quality services.

6. Conclusion

In conclusion, respondents are requested to comment on the matters set out in sections 4 and 5 of this paper. It would assist in the consideration of responses if the question numbers in these sections were quoted in any replies. Respondents are also requested to comment on the conditions in the draft pro-forma licence as set out in Appendices 2, the intent and objective of those conditions as set out in Appendix 1, and the appropriateness of those conditions. Comments on any additional conditions, which respondents believe should be included, are also welcome.

/ENDS

Electricity Licence – Explanatory Note on Conditions

Condition No.	Heading	Purpose
Part I		
1	Definitions	Sets out the meaning attributed to certain terms used throughout the licence document.
2	Scope of the Licence	Establishes to whom the licence is issued, the nature of the licence, the requirements with regard to the control of the licensee and obligations with respect to any changes in control of the licensee that may take place.
3	Licence fee	Requires the licensee to pay a fee for the licence.
4	Provision of Information	This condition sets out some detail on how information required by the Director General may be obtained and obliges the licensee to comply with requests and provide all relevant information and assistance. This is a crucial condition as the information requested will enable the Director General to make determinations in the best interest of users and the market as a whole.
5	Compliance	States that the licensee must comply with any and all directions issued by the Director General or as set down in law.
6	Modification	The licence should be viewed as a living document and changes may be required to be made to it over the term of the licence to take account of developments in the market. This condition provides for such modifications and the Electricity Law sets out in more specific detail the process to be followed in making modifications.
7	Exceptions and Limitations	While it is assumed that the licensee will at all times make every endeavour to comply with its licence and any directions given to it by the Director General, if such compliance is prevented by force majeure, the licensee must inform the Director General, set out the impact on its duty to comply with the Licence and set out how it intends to rectify the situation. The Director General will consider such matters on a case by case basis.
8	Enforcement and Revocation	This clause provides for the Director General to revoke the licence in accordance with the process and procedures set out in the Electricity Law, and for the licensee's obligations with respect to the provision of service to its customers at the time that any

		such revocation takes place.
9	Interests of the Bailiwick	Requires the licensee to take all reasonable steps to prevent its network and services from being used to harm the interests of the Bailiwick.
10	Term and Renewal	Provides for the length of validity of the licence and for the licensee to seek renewal of the licence. The term of the licence is 15 years.
11	Cessation of Services	Provides for the manner in which a licensee may cease service and the steps required of it in doing so. This is designed to ensure continuity of delivery of services for the licensee's customers.
12	Environment	Requires the licensee to comply with all relevant environmental law and provide such information with respect to meeting this condition as may be requested by the Director General.
13	Fair Competition	Requires all licensees to behave in a fair way and not engage in anti-competitive practices.
14	Misuse of data	Requires the licensee to handle information received in a manner that does not benefit it or any associated companies or in a manner that is anti-competitive towards other operators.
Part II		
15	Determination of Dominance	Under this condition the Director General may apply the conditions in Part II of the Licence to any licensee that has been found to have a dominant position in a relevant market in accordance with Section 5 of the Electricity Law.
16	Separate Accounts	To aid the Director General in ensuring compliance with other conditions, the ability of the licensee to show that there is no below cost and/or cross subsidisation of any element of the business will be paramount. Keeping separate accounts for different activities is essential to calculate this.
17	Cross Subsidisation	This condition prohibits unfair cross-subsidisation and is intended to aid new entrants in assuring them that they are competing on a fair and equitable basis
18	Undue Preference & Unfair Discrimination	This condition requires the Licensee to treat all classes of customers in a similar manner and provide them with similar terms and conditions.
19	Linked Sales	This condition prevents the Licensee from 'bundling' services or products so that a

		user or new entrant must purchase products or services which it does not require.
20	Price Regulated Services	This condition requires the Licensee to publish details of new services or prices, discounts on services or special offers and submit information relating to the proposal to the Director General. The purpose of this is to ensure that any such changes/introductions are compliant with the requirement to be transparent, non-discriminatory and cost-justified.
Part III		
21	Scope of Application	States that the conditions in Part III apply to Generation Licensees
22	Service Levels	The licensee is required to provide a development plan setting out its targets for the ongoing development of the electricity generation business, and a monitoring plan which measures achievement of those targets. This is designed to ensure the on-going improvement to the electricity generation service to ensure that the Bailiwick is provided with the highest level of service.
23	Compliance with Technical & Operational codes	Requires the licensee to comply with any technical or operational codes applicable to it.
24	Central Despatch and Merit Order	Provides for the manner in which electricity is provided by the licensee to the Conveyance Licensee for re-distribution.
Part IV		
25	Scope of Application	States that the conditions in Part IV apply to the Conveyance Licensee.

26	Service Levels	The licensee is required to provide a development plan setting out its targets for the ongoing development of the electricity conveyance business, and a monitoring plan which measures achievement of those targets. This is designed to ensure the on-going improvement to electricity conveyance to ensure that the Bailiwick is provided with the highest level of service.
27	Compliance with Technical & Operational codes	Requires the licensee to develop and comply with any technical or operational codes with respect to the conveyance of electricity following consultation with any affected parties, and to comply with any directions from the Director General with regard to such codes.
28	Economic Purchasing of Goods, Assets and Services	Requires the licensee to purchase any goods or services required by it from the most economical source available.
29	Connection to the Conveyance System – Terms	The licensee is required to offer to enter into an agreement, or the modification of an existing agreement, with any electricity undertaking within a specified timeframe.
30	Connection to the Conveyance System – Functions of the DG	Provides for the intervention of the Director General in situations where the licensee and another electricity undertaking have failed to reach agreement under Condition 29.
31	Basis of Charges for Connection to the Conveyance System	Requires the licensee to prepare a statement setting out the basis for its charges for connection to the conveyance system and provides for the review of those charges from time to time. It also provides for the Director General to direct changes to the statement.
32	Provision of Information to Supply Licensees	Requires the Licensee to provide to generation and supply licensees such information as is necessary to enable the inter-operability of the electricity network.

33	System Capacity	The licensee is required to prepare annually a statement on its capacity requirements for the succeeding 7 years and submit this to the Director and make it available to any person requesting a copy of it.
34	Central Despatch and Merit Order	Provides for the manner in which the Conveyance Licensee receives and re-distributes electricity.
35	Economic Purchasing of Electricity and Ancillary Services	Requires the Licensee to purchase electricity and ancillary services at the best effective price.
Part V		
36	Scope of Application	States that the conditions in Part V apply to the Public Supply Licensee.
37	Service Levels	The licensee is required to provide a development plan setting out its targets for the ongoing development of the electricity supply business, and a monitoring plan which measures achievement of those targets. This is designed to ensure the on-going improvement to the electricity supply business so that the Bailiwick is provided with the highest level of service.
38	Compliance with Technical & Operational codes	Requires the licensee to develop and comply with any technical or operational codes with respect to the supply of electricity following consultation with any affected parties, and to comply with any directions from the Director General with regard to such codes.
39	Economic Purchasing of Goods, Assets and Services	Requires the licensee to purchase any goods or services required by it from the most economical source available.
40	Security & Safety of Supply	The licensee must provide a service, without charge, whereby customers may make enquires concerning safety or security issues. It may also make use of its bill service to fulfil part of this requirement.
41	Provision of information about Theft, Damage and Meter Interference	The licensee shall inform a customer of any damage or interference to its electric plant, line or meter to prevent any of these functioning properly.
42	Information given to Customers	The licensee shall inform all customers of their electricity consumption.
43	Preparation Review of and	This condition requires the licensee to prepare the codes referred to in Condition 44

	Compliance with Codes of Practice	through 51, and sets out procedures for reviewing and amending the codes as well as providing for monitoring of the operation of the codes by the Director General.
44	Code of Practice on Access to Buildings	Requires the Licensee to prepare a code of practice setting out the principles and practises to be followed by its staff in relation to accessing customers' premises.
45	Code of Practice on Payment of Bills	Requires the Licensee to prepare a code of practice for the payment of bills by tariff customers, including guidance for those having difficulty paying such bills.
46	Code of Practice on Dealing with Tariff Customers in Default	Requires the Licensee to prepare a code of practice for dealing with customers who are in default of their bills through certain circumstances.
47	Code of Practice on Connections and Disconnections	Requires the Licensee to prepare a code of practice dealing with its procedures for connections and disconnections.
48	Code of Practice for services for Certain classes of Customers	Requires the Licensee to prepare a code of practice for dealing with customers who are disabled, chronically sick or of pensionable age.
49	Code of Practice on Complaint Handling Procedure	Requires the Licensee to prepare a code of practice dealing with the Licensee's complaint handling procedures.
50	Code of Practice for Reading Customers meters	Requires the Licensee to prepare a code of practice setting out the Licensee's procedures for reading and inspecting customers' meters.
51	Efficient use of Electricity	Requires the Licensee to prepare a code of practice setting out the ways in which customers of the Licensee can make most efficient use of electricity.
52	Additional Consumer Protection Conditions	Provides for the Licensee to report on the number and manner of complaints it has received and for the establishment of a users council.
53	Report on Licensee's Performance	The Licensee may be required to submit such information with regard to its compliance with Conditions 44 – 51 as the Director General may require.

**Draft Pro forma
Electricity Licence**