

# The Office of Utility Regulation

## Annual Report and Accounts 2010



# Office of Utility Regulation

12th September 2011

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 1st January 2010—31st December 2010.

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 2010 to the States of Guernsey.

2010 marked a significant year for the OUR. The call for closer co-operation with Jersey on regulatory issues, expressed by both the business community and politicians, produced a real milestone in 2010. Following the departure of the head of the Jersey Competition Regulatory Authority (JCRA) last summer, the opportunity to have the OUR and the JCRA work more closely together was taken up by the Commerce & Employment Department and their counterparts in Jersey the Economic Development Department. As a result, the JCRA Board agreed to appoint the Director General of the OUR as their Executive Director.

This has presented a real opportunity for sharing resources between both offices, closer working on shared areas of responsibility and where possible joint projects. There will be matters which will require a local solution. However the positive reaction from licensed operators and the business community to this joint approach is very welcome.

The telecoms and postal sectors lend themselves very strongly towards joint projects. In the telecoms market, many of the licensees regulated in Guernsey are also regulated in Jersey. Many of the issues we are tackling in the postal market are matters that need to be addressed in Jersey. This produces certain synergies for the regulators, but more importantly produces real benefits for the companies we regulate.

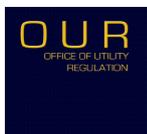
I am conscious that all of the regulated companies have limited resources and where they have pan Channel Island operations those internal resources are in almost all cases shared across both islands. Therefore working on a particular regulatory initiative jointly with Jersey has real benefits for the regulated companies.

The postal markets in both islands face the same challenges. Declining mail volumes, off-island pressure on the bulk mail industry and the challenge of meeting the Universal Service Obligation while still ensuring postal charges remain affordable are issues faced by both Guernsey Post and Jersey Post. However much we as consumers may regret it, change in the postal sector is happening at a pace faster than previously seen. It is important that this change is managed which will involve the need for further tough decisions being taken in both Islands.

Our role as a regulator remains, as ever, focused on increasing competition where it is sustainable and also ensuring that all consumers are able to get competitively priced utility services at a high quality. We maintain our view that competition in the provision of services is a much more effective tool than regulation alone. Competition in the provision of services helps make firms more efficient and more productive. Competitive markets also benefit consumers by driving innovation and improving quality of service.

The decision to open the postal market to limited competition regrettably resulted in a legal challenge which occupied considerable resources of the OUR during 2010. The introduction of competition, I strongly believe, has now been demonstrated to have been a positive move for Guernsey Post and their customers.

Not only has it pushed the company to realise over £3million in savings – savings previously argued not attainable – but better positions the company for the challenges it now faces. These include the continuing decline in mail volumes and the threat to LVCR and its potential impact on the bulk mail industry.



# Director General's Report

Without this push from the OUR, however uncomfortable it may have been perceived at the time, Guernsey Post would have to face bigger and faster changes which would have brought even greater disruption and unease for its staff, its customers and ultimately its shareholder, the States of Guernsey.

As the postal regulator our role is to ensure Guernsey has a strong, sustainable postal operator capable of delivering the Universal Service Obligation. This is a goal we share with Guernsey Post and with the States. It is one we take extremely seriously. However we still believe that competition has a role in the postal market and that competition, properly regulated by experts, will in the long term be of benefit to Guernsey, Guernsey Post and Guernsey consumers.

In telecoms, we continue to focus on increasing competition where feasible. Significant progress has been made in the mobile market with increasingly better value being offered by all three operators. Our focus during 2010 was on the fixed market and this will remain an area where considerable effort will be made during 2011.

We are looking to develop, in consultation with the industry, solutions that will enable fixed line customers, both business and residential, get greater choice which in turn should deliver savings for the mobile market. This approach, like most of our telecoms work now, is being undertaken on a pan Channel Island basis, a move strongly supported by the industry. Where competition is not yet effective we continued to monitor and control C&W Guernsey's charges for key services such as line rental. Guernsey customers continue to benefit from one of the lowest line rental charges in most comparable jurisdictions.

In common with the postal sector, the working relationship with Guernsey Electricity has, I am pleased to say, greatly improved over the past 12 months. The external influences on the energy sector remained uncertain during 2010, and the events in the Middle East in Spring 2011 has contributed to the volatility we see in energy prices. It is important therefore that those costs that are more directly influenced by Guernsey Electricity are tightly managed. During 2010, the OUR reviewed the price control that applied to Guernsey Electricity and set a further one year control from April 2011. A significant factor impacting on our work in this area is the lack of a fit for purpose energy plan. This issue was also identified by the advisors to Commerce & Employment during the review of regulation. It is hoped that the work currently underway will address this gap.

I would like again acknowledge the continued hard work and support of our Audit, Risk and Remuneration Committee (ARRC) for its assistance and advice over 2007. I would like to thank Mr. Alan Bougourd, who stepped down from his role as Chairman of the ARRC in 2010, for his support and contribution to the office. The report of the Chairman of the ARRC is included in this report and sets out the issues which the committee addressed in 2010. I would also like to thank the staff at the OUR for their continued professionalism and for embracing the opportunity to work more closely with Jersey. The OUR remains a small team of experienced regulators that is committed to ensuring consumers needs are adequately protected.

I am pleased to submit this report to the States of Guernsey.



John Curran  
Director General



# 2010 in Brief

## February

Roll forward of Cable & Wireless Guernsey's Price Control - Call for Comment

2.6GHz Spectrum Licence Award-Consultation launched

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## March

Telecommunications Market Data January — June 2009 Report issued

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## May

Consultation launched into Licensing of Postal Operators

Review of Mobile Licence Conditions — consultation launched

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## July

Latest Register of Mobile Phone Operator Mast Sites in Bailiwick published

Audit of Emissions from Radio Masts — report published

Invitation to Comment launched on Amendment to Cable & Wireless Guernsey's Fixed Telecommunications Licence

## August

A statutory invitation to comment is launched on a proposed amendment to the reserved area of postal services

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## September

Final decision issued on Reserved Postal Services in Guernsey

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## October

Consultation Paper issued on Guernsey Post's Proposed Tariff Change

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## November

A consultation paper is issued on Guernsey Electricity's Price Control

Draft Decision issued on the licensing of Postal Operators

Consultation paper issued on Cable & Wireless Guernsey's Price Control

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## December

A draft decision is issued on a review of Mobile Licence Conditions



# 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 regulations and orders. Texts of all relevant legislation can be found on the OUR website at [www.regutil.gg](http://www.regutil.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 directions in relation to all three sectors in 2001. The full text of the directions that were in place in 2008 is included in Annex A to 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 appointed 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 Institute of Directors.



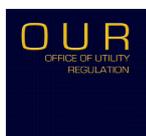
## Michael Byrne, Deputy Director General

Michael joined the OUR in June 2005 as Director of Regulation. He became Deputy Director General in 2007. 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. In addition, Michael has a post-graduate diploma in Competition Policy and an MBA from the University of Warwick and a Diploma in Company Direction from the IoD.



## Jeanne Golay, Head of Regulatory Policy

Jeanne Golay 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, for 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 Master in Science from the London School of Economics and a diploma in European competition law from King's College, University of London.



# The OUR Team

## Jonathan Tooley, Head of Policy and Consumer Affairs

Jonathan joined 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, the UK water industry's economic regulator 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.



## Rosie Allsopp, Office Manager/Case Officer

Rosie joined the OUR in January 2007. She manages the office and provides administrative support. In addition to this, she is a case officer for dispute resolution. Rosie was educated locally at the Grammar School and was formerly a journalist with the Guernsey Press for more than seven years where she was deputy news editor and business editor and developed a strong interest in local politics and business. Rosie studied for a post-graduate diploma in journalism at the Press Association-affiliated Editorial Centre.



# Communication and Expert Support

It is OUR policy to operate with a small core team of professional staff and utilise expert consultants as needed on specific projects. This ensures that the Office works efficiently and effectively and keeps its skills and expertise up to date with knowledge transfer from experts in their fields.

The OUR operates in an open and transparent way, and seeks to consult with as wide a range of stakeholders as possible on all key decisions.

The OUR website ([www.regutil.gg](http://www.regutil.gg)) is used as a means of communicating with operators within the regulated industries and with the public.

All consultation documents are published on the site as well as being made available in hard copy on request and responses, where not confidential, are also made available. The OUR publishes all decisions with reasons and a commentary on the views received.

During 2010, the following consultants and external specialists worked with the OUR on a range of specific projects, as well as providing general support for the OUR work programme:

- **KPMG LLP** provided assistance and support across a range of telecommunications projects ;
- **Parsons Brinckerhoff Ltd** provided assistance on the Guernsey Electricity Ltd price control;
- **Red-M** undertook the audit of emissions from radio masts;
- **Cambridge Economic Policy Associates** provided assistance to the OUR in its work on Guernsey Post Ltd;
- **Brockley Consulting Ltd** provided assistance with Guernsey Post Ltd's proposed Tariff changes;
- **Power Consult International** provided assistance with the OUR's review of Guernsey Electricity Ltd for the Emergency Powers Advisory Group;
- **Sirius Consulting** provided assistance with the OUR's review of Guernsey Post Ltd for the Emergency Powers Advisory Group;
- **AO Hall and McCann Fitzgerald Solicitors** provided legal advice during 2010;



# 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 in Section 2 of the Regulation Law 2001 and some of the initiatives undertaken in 2009 in performing these duties.

## Duties

To protect 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

Following a detailed review of the financial information provided by the three mobile telecoms operators, mobile termination rates were reduced with effect from 1st April 2010 to 4.11 pence per minute (ppm) from 2010 onwards, representing a 40% decrease from the existing charge.

Fixed telecom prices remained largely frozen or fell further over the course of 2010 as the OUR's price control of C&WG saw local call charges fall by almost 9%. Price freezes saw exchange line prices remain at £7.99 per month, in effect a decrease of over 2%.

In electricity the need to balance price stability against cost reflectivity saw tariffs rise by 8.5% from April 2010 as international energy costs rose further.

# Activity Report:

## 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.

To ensure 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;

## Performance

The levels of investment in additional generation capacity has been driven by greater than expected demand over recent years which is set to continue. The large costs of such investment and the long term implications for the cost of electricity saw the OUR commit considerable resource to appraising the capital expenditure plans of GEL.

The OUR also gauged interest in bandwidth in the 2.6GHz frequency band given technology developments allowing this bandwidth to provide far greater speed and volume of information content delivered wirelessly. At this time there remain technical issues to address with the deployment of this spectrum and the OUR has halted any further work in this area until the results of trials under the auspices of Ofcom have been assessed.

The OUR, with the JCRA, and telecoms operators in both islands are working to identify wholesale fixed line products that facilitate improved access to customers. This project seeks to avoid duplication of infrastructure, in particular the extent of road digging that inconveniences islanders and raises costs, where entrants seek to build their own network infrastructure rather than utilise that of the incumbent. This has the additional benefit of more rapid implementation of wholesale products and the potential benefits to consumers of innovation and choice, as well as price.

In post the need to protect the universal service obligation saw the OUR commence the process for creating a framework within which new postal operators may be licensed to compete against Guernsey Post. A fair licensing regime is seen as being necessary. This seeks to ensure that should it be necessary, such operators make a contribution to the USO to enable Guernsey Post to meet the obligations of the USO.

# Activity Report:

## Duties

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.

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

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

## Performance

The OUR reviewed the level of the reserved area needed by Guernsey Post to sustain the USO and decided to open the market for postal packets to competition. Despite an initial appeal of this decision, agreement was reached with Guernsey Post in September 2010 which enabled this change to be implemented. The OUR will assess the impact of this change on customers as competition begins to place pressure on GPL to make the necessary changes and adapt to the challenges that exist in the marketplace.

In electricity, GEL continued to rollout automatic meters subject to deadlines as set out in the OUR's price control decision. It is the intention that better customer information and improved intelligence on where network failures occur will allow more rapid repair and improve consumption decision.

Restrictions have been removed from mobile licences that limit how certain spectrum can be used. This allows the market to take more responsibility for quality standards and allow mobile operators to better utilise the spectrum they have been granted. In 2010 a further fixed licence was also issued to 2e2.

The OUR carried out a further audit of mast emissions, where a further 16 sites were audited to ensure operators' ongoing compliance with the ICNIRP guidelines. To-date all sites have complied fully with the guidelines applied. Site sharing obligations on mobile operators continue in force with the key aim of minimising the need for additional mobile masts where existing masts have the capacity to be shared with other operators.

**Report of the Director General and**  
**Financial Statements for the Year Ended 31 December 2010**  
**for**  
**Public Utilities Regulation Fund**

**Public Utilities Regulation Fund**

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for the Year Ended 31 December 2010**

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**Public Utilities Regulation Fund**

**Fund Information**  
**for the Year Ended 31 December 2010**

**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 2010**

The Director General presents his report with the financial statements of the Fund for the year ended 31 December 2010.

**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.

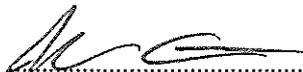
In accordance with Section 13 of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General shall keep all proper accounts and records in relation to those accounts and shall prepare in respect of each year a statement of account giving a true and fair view of the state of affairs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



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

Dated:..... *29 July 2011* .....

## Public Utilities Regulation Fund

### 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 2010 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 Generals' Responsibilities on page 2, the Director General is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Our responsibility is to audit 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.

#### **Opinion on the financial statements**

In our opinion the financial statements

- give a true and fair view of the state of the Fund's affairs as at 31 December 2010 and of its deficit 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: 29 July 2011

**Public Utilities Regulation Fund**

**Income and Expenditure Account**  
**for the Year Ended 31 December 2010**

	Notes	2010 £	2009 £
<b>INCOME</b>			
Licence fees		680,458	931,179
Bank interest		<u>2,757</u>	<u>6,432</u>
		683,215	937,611
<b>EXPENDITURE</b>			
		949,118	857,838
<b>(DEFICIT)/SURPLUS FOR THE YEAR</b>			
		(265,903)	79,773
<b>TRANSFER FROM/ (TO)</b>	7	265,903	(79,773)
<b>CONTINGENCY RESERVE</b>		<u>          </u>	<u>          </u>
<b>NET OPERATING RESULT FOR THE YEAR</b>		<u><u>          </u></u>	<u><u>          </u></u>

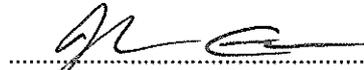
The Fund has no other gains or losses for the current or preceding financial year other than those stated in the Income and Expenditure Account.

**Public Utilities Regulation Fund**

**Balance Sheet**  
**31 December 2010**

	Notes	2010 £	£	2009 £	£
<b>FIXED ASSETS</b>					
Tangible assets	4		6,741		11,621
<b>CURRENT ASSETS</b>					
Debtors	5	20,967		19,398	
Cash at bank and in hand		<u>382,473</u>		<u>611,925</u>	
		403,440		631,323	
<b>CREDITORS</b>					
Amounts falling due within one year	6	<u>122,019</u>		<u>88,879</u>	
<b>NET CURRENT ASSETS</b>			<u>281,421</u>		<u>542,444</u>
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>			<u>288,162</u>		<u>554,065</u>
<b>RESERVES</b>					
Contingency reserve	7		<u>288,162</u>		<u>554,065</u>
			<u>288,162</u>		<u>554,065</u>

The financial statements were approved on 29 July 2011 and were signed by:

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

## Public Utilities Regulation Fund

### Notes to the Financial Statements for the Year Ended 31 December 2010

#### 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 income from organisation of conferences 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

#### 2. OPERATING (DEFICIT)/SURPLUS

The operating (deficit)/surplus is stated after charging:

	2010	2009
	£	£
Depreciation - owned assets	4,952	4,496
Auditors & accountants' fees	<u>6,540</u>	<u>6,300</u>

#### 3. TAXATION

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

#### 4. TANGIBLE FIXED ASSETS

	Office equipment £	Fixtures and fittings £	Computer equipment £	Totals £
<b>COST</b>				
At 1 January 2010	39,433	3,265	35,926	78,624
Additions	72	-	-	72
Disposals	<u>(7,598)</u>	<u>-</u>	<u>(8,978)</u>	<u>(16,576)</u>
At 31 December 2010	<u>31,907</u>	<u>3,265</u>	<u>26,948</u>	<u>62,120</u>
<b>DEPRECIATION</b>				
At 1 January 2010	35,004	3,208	28,791	67,003
Charge for year	1,527	57	3,368	4,952
Eliminated on disposal	<u>(7,598)</u>	<u>-</u>	<u>(8,978)</u>	<u>(16,576)</u>
At 31 December 2010	<u>28,933</u>	<u>3,265</u>	<u>23,181</u>	<u>55,379</u>
<b>NET BOOK VALUE</b>				
At 31 December 2010	<u>2,974</u>	<u>-</u>	<u>3,767</u>	<u>6,741</u>
At 31 December 2009	<u>4,429</u>	<u>57</u>	<u>7,135</u>	<u>11,621</u>

**Public Utilities Regulation Fund**

**Notes to the Financial Statements - continued**  
**for the Year Ended 31 December 2010**

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

	2010	2009
	£	£
Accrued interest	77	59
Other debtors	<u>20,890</u>	<u>19,339</u>
	<u>20,967</u>	<u>19,398</u>

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

	2010	2009
	£	£
Trade creditors	55,721	33,530
Deferred income	23,771	16,402
Other creditors	<u>42,527</u>	<u>38,947</u>
	<u>122,019</u>	<u>88,879</u>

**7. CONTINGENCY RESERVES**

Any surplus or deficit in the Income and Expenditure Account is either transferred to or from the contingency reserve.

	£
At 1 January 2010	554,065
Movement in the year	<u>(265,903)</u>
At 31 December 2010	<u>288,162</u>

**Public Utilities Regulation Fund**

**Detailed Income and Expenditure Account  
for the Year Ended 31 December 2010**

	2010		2009	
	£	£	£	£
<b>Income</b>				
Post office revenue	160,000		140,000	
Telecoms revenue	360,458		638,179	
Electricity revenue	160,000		140,000	
Other income	<u>-</u>		<u>13,000</u>	
		680,458		931,179
<b>Other income</b>				
Bank interest		<u>2,757</u>		<u>6,432</u>
		683,215		937,611
<b>Expenditure</b>				
General overheads	94,631		90,749	
Salaries and staff costs	413,066		488,394	
Consultancy fees	297,431		206,393	
Legal costs	124,354		52,506	
Auditors and accountancy fees	6,540		6,300	
ARRC fees	<u>8,000</u>		<u>9,000</u>	
		944,022		853,342
		<u>(260,807)</u>		<u>84,269</u>
<b>Finance costs</b>				
Bank charges		<u>144</u>		<u>-</u>
		(260,951)		84,269
<b>Depreciation</b>				
Office equipment	1,527		1,357	
Fixtures and fittings	57		44	
Computer equipment	<u>3,368</u>		<u>3,095</u>	
		4,952		4,496
<b>(DEFICIT)/SURPLUS FOR THE YEAR</b>		<u>(265,903)</u>		<u>79,773</u>

This page does not form part of the statutory financial statements

# OUR Corporate Governance

## Audit Risk and Remuneration Committee Chairman's Report

The Committee continued to work under the terms of the 31st 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.

During the year Alan Bougourd (chairman) resigned his membership. The current membership of the Committee is as follows:

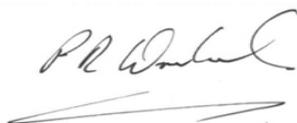
- Peter Woodward (chairman)
- Deputy Martin Storey
- Jane Needham

All members are considered to be independent of the OUR. The current committee would like to record its thanks for the valuable contribution made by Mr Bougourd during his time on the committee.

The Committee met formally on four occasions in 2010 and carried out the following specific activities:

- Participating with a detailed risk review for the activities of the OUR and reviewing, on an on-going basis, the implementation of the agreed risk management actions.
- Reviewing the Financial Statements of the Public Utilities Regulation Fund for 2009 and discussing the results of the audit 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 for 2010.
- Monitoring and approving recruitment and remuneration of staff.
- Recommending improvements to employment contracts and the staff handbook and monitoring their implementation.
- Reviewed the report into the review of regulation carried out by RPI and gave their recommendations to the Commerce and Employment Department.
- Discussed closer working with Jersey in the context of the OUR's Director General taking up the role of Executive Director of the JCRA.
- Reviewed current and planned workloads on a periodic basis and offered advice if applicable.

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 £10,000.



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 2010:

- Alan Bougourd
- Deputy Martin Storey
- Ms Jane Needham
- Mr Peter Woodward

Alan Bougourd resigned from the committee during the year and the OUR wishes to record its thanks to him for the valuable contribution he made.

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.

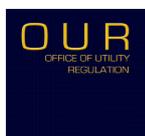
#### Role of the Committee:

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;
- 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;
- 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<sup>st</sup> December 2011. Thereafter the term will be for a period of two years.

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
- 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.

### **Responsibilities and Reporting**

The internal auditor will be accountable to OUR's ARRC and its work programme will be subject to the approval of the ARRC. No work should be undertaken without the prior approval of the ARRC.

All work undertaken should be planned and carried out in accordance with the Standards of Professional Audit Practice set by the Institute of Internal Auditors-UK.

On completion of an assignment, before a final report is issued, the internal auditor will communicate its findings to management and staff of the audited area for their views. These views will be considered and recorded in the final report.

Copies of the final report will be provided to the Director General and ARRC.

## **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 A: 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 A: 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<sup>st</sup> 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<sup>st</sup> January 2012.

## Annex B—Documents published in 2010

10/01	Roll Forward of Cable & Wireless Guernsey's Price Control—Call for Comment
10/02	2.6 GHz Licence Award—Consultation
10/03	Telecommunications Market Data Report—January to June 2009
10/04	Licensing of Postal Operators—Consultation Document
10/05	Review of Mobile Licence Conditions—Consultation Document
10/06	Register of Mobile Phone Operator Mast Sites in the Bailiwick of Guernsey
10/07	Audit of Emissions from Radio Masts—Information Notice
10/08	Amendment to Cable & Wireless Guernsey's Fixed Telecommunications Licence—Statutory Invitation to Comment
10/09	C&WG Reference Offer and Interconnection Rates—Final Decision
10/10	Amendment to the Reserved Area of Postal Services; Statutory Invitation to Comment
10/11	Reserved Postal Services in Guernsey—Final Decision
10/12	Guernsey Post's Proposed Tariff Changes—Consultation Paper
10/13	Guernsey Electricity Ltd Price Control—Consultation Paper
10/14	Licensing of Postal Operators—Draft Decision
10/15	Cable & Wireless Guernsey Price Control—Consultation Paper
10/16	Review of Mobile Licence Conditions—Draft Decision