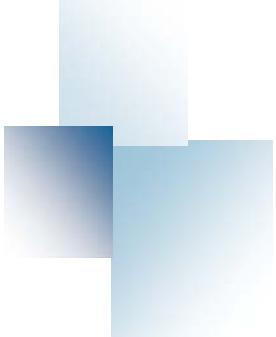




Office of Utility Regulation, Bailiwick of Guernsey



Annual Report and Accounts 2003

Year Ending 31st December 2003

Annual Report: 2003



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

12th July, 2004

Dear Deputy Falla,

I am pleased to submit this report on the activities of the Office of Utility Regulation for the period 1st January 2003 to 31st December 2003.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read "Regina Finn".

Regina Finn
Director General of Utility Regulation

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Annual Report: 2003



*“Change is the law of life.
And those who look only to
the past or present are certain
to miss the future”*

-John F. Kennedy





2003 was the second full year of operation of the OUR and saw a number of exciting developments that represent real progress in the utility sectors. The short and long term interests of consumers remained at the top of the OUR's agenda and informed the extensive work programme during the year.

The achievements of the OUR in 2003 can be attributed to the dedication, professionalism and hard work of the small team of four people in the Office. By meeting consistently high and demanding standards they have safeguarded the interests of Guernsey's economy, now and in the longer term.

In the **telecommunications sector**, competitive markets moved closer to being a reality with the removal of the last legal monopoly held by Cable & Wireless Guernsey in the mobile sector. In March 2003 Wave Telecom Ltd was granted licences to provide mobile telecommunications networks and services in the Bailiwick, including services using new 3G technology.

Guernsey is now poised to reap the benefits of competition in this key market segment when the new network goes live in 2004.

At the same time the new players in the fixed telecoms market—Wave Telecom and Newtel—started to put in place their service offerings, concentrating initially on business users. Towards the end of the year Wave Telecom announced its intention to launch competitive call services to residential users using carrier selection, bringing choice to that segment of the market.

Unfortunately, valuable time and resources in the telecoms sector were diverted during the year to deal with time consuming and costly litigation against the OUR and this impacted on the pace of developments in the telecoms sector, leading to a rescheduling of some key projects.

In March, **electricity** prices to customers were frozen to allow a window for a detailed examination of Guernsey's options for sourcing electricity in the future.

At the same time the high quality of customer standards met by Guernsey Electricity Ltd were reviewed and tightened further, and compensation for failure to meet targets was extended across all guaranteed service standards.

The Guernsey **postal service** started the year on a difficult note, with significant quality of service problems over Christmas 2002 and New Year 2003, but ended the year in a better position with the restoration and improvement of quality standards for Christmas 2003.

The OUR set new quality of service standards for all key mail streams and Guernsey Post Ltd put in place a programme for measuring and publishing its performance against these. The company submitted an application for tariff increases in November which would be decided on in 2004.

Director General's Report

In all three sectors key players consolidated and had the opportunity to focus attention on their customers' needs. But one thing is very clear; this is just the beginning of the process of adapting and adjusting to meet Guernsey's needs.

We are all familiar with the truism, things that do not change, die. The work of the OUR—described in detail in this report—has been designed to ensure that the changes that are happening globally are matched by changes in the essential utility sectors in Guernsey.

Change is essential if Guernsey is to continue to thrive and it is important not to become complacent. We have only laid the foundations and Guernsey's utility sectors must run very hard, just to stay in the one spot in terms of global standards. But exceeding those global standards is not an idle dream for Guernsey and it is something worth aiming for.



Regina Finn
Director General of Utility Regulation

The Year in Brief

January 2003

OUR publishes information note on investigation into postal quality of service in Guernsey; Consultation launched on postal quality of service (QoS) targets; Publication of notice of proposal to modify electricity licences to meet requirements of States Directions.

February 2003

Electricity licences modified to meet States Directions.

March 2003

Conclusion of OUR investigation into postal service failures over Christmas 2002; Report and detailed Directions issued to Guernsey Post Limited; OUR freezes electricity prices until 2005.

April 2003

OUR publishes finding in dispute with GPL over closure of Arcade Post Office; consultation on corporate number ranges launched; Mobile (2G and 3G) licences in Guernsey awarded to Wave Telecom Ltd come into force.

May 2003

OUR report on postal quality of service published along with decision to impose QoS targets for key mail streams in and out of Guernsey.

June 2003

New technology opportunities highlighted—OUR publishes information notes on Broadband Fixed Wireless Access licences and ENUM opportunities. Review of C&W price changes concluded; First sitting of Utility Appeals Tribunal in appeal taken by C&WG against an OUR decision.

July 2003

OUR proposes to direct C&WG to produce and publish separated accounts by specified deadlines; Proposal to direct C&WG to comply with disputed direction to include leased lines in RO published.

August 2003

C&WG directed to produce 2001 and 2002/3 separated accounts; Hearing of application for stay of OUR decision on leased lines—stay granted on basis of undertaken given by C&WG to reimburse new entrants as appropriate.

Review of C&WG Reference Offer—consultation document published on future priorities; Update on Guernsey Post Ltd's compliance with Directions; Quality of Service Targets for letter mail and customer service measures incorporated into postal licence.

September 2003

OUR consults on publication of Guernsey Electricity Ltd's separated accounts; Consultation on licensing of internet access in Guernsey launched; Consultation on quality of electricity services published.

October 2003

OUR directs C&WG to publish detailed separated accounts; Finding in Postal Dispute on insurance of parcels is published.

November 2003

Report on Reference Offer for Interconnection and Access published; OUR consults on and decides to apply the Code for access to Land and Property to Wave Telecom's mobile licenses; Guernsey Post announces proposed tariff increases—OUR publishes consultation; Utility Appeals Tribunal hears appeal by C&WG against OUR decision.

December 2003

OUR amends Direction to C&WG on publication of Regulatory Accounts—revised accounts published by C&WG; C&WG directed to reduce charges to other licensees for interconnection and access; GEL required to publish Regulatory Accounts; QoS targets for electricity tightened.



Annual Report: 2003

"It is important to recognise that the regulator – whether an individual or a board – has legitimacy from only two sources: first is the statute which confers powers and duties on the regulator; and second is the professionalism, openness and fairness with which the regulator discharges those duties and exercises these powers."

-Speech given by Callum McCarthy, Ofgem 2003

The Guernsey Regulatory Environment

The States of Guernsey set up the regulatory framework for telecommunications, post and electricity 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** which establishes the Office of Utility Regulation (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, 2001.

Each law sets out in more detail the powers and functions of the Director General in the relevant sector. Secondary legislation has been enacted by the States on a number of issues including commencement ordinances for each of the laws, exclusion of liability ordinance and the Utility Appeals Tribunal Ordinance which sets up an appeals mechanism for decisions of the OUR.

Where empowered to do so the Director General has also introduced regulations and orders and these, along with directions, decisions and the large body of published documentation on the OUR website, record the implementation of the legislative and policy framework for regulation of utilities in Guernsey.

Texts of all relevant legislation are available from the OUR website at 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. These include directions on:

- 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;
- Any special or **exclusive rights** that should be granted to any licensee in any of the sectors; and
- Any requirements on licensees that might be needed for Guernsey to comply with any of its **international obligations**.



The Guernsey Regulatory Environment

The States debated and agreed policy directions in relation to all three sectors in 2001. In response to a request from the States of Guernsey, the OUR provided a detailed report on the electricity sector so that the States could consider and decide on further policy directions in 2003 in relation to electricity.

The full text of the directions that were in place in 2003 is included in **Annex A** to this report in accordance with section 8 of the Regulation Law.

The Office of Utility Regulation



The OUR was set up in October 2001 to regulate the three sectors of electricity, post and telecommunications independently from government and the players in the market, and in line with States policy and the provisions in the Laws. The Regulatory Laws require the Director General to be independent, fair and impartial, in carrying out her functions and to do so in a manner that is timely, transparent and objective and consistent with States policy directions.

OUR Team

OUR is located in its own separate offices in Hirzel Court in St Peter Port and, although small, continues to be independently run and staffed with its own computer network, telephone system and services.

During 2003 the Office had four core staff in addition to the Director General and continued its use of external specialist technical expertise to complement in-house resources and to handle specific projects.

Appointed by the States of Guernsey as Director General of Utility Regulation in October 2001, Regina has led and managed the independent OUR in the formative years of utility regulation in Guernsey, regulating the telecommunications, post and electricity sectors.

Regina spent the previous year working as an adviser to the States in the establishment of the regulatory framework for utility sectors and setting up the OUR. Before moving to Guernsey, Regina was Head of Market Operations and Deputy Director of the telecommunications regulator in Ireland and has spent over ten years in the regulation of communications sectors.

Regina Finn



Jon Buckland



Jon joined the OUR in October 2001 shortly after it was established. Jon has lead responsibility for the regulatory work programme in the postal sector, developing quality of service standards and setting postal price controls. He also supports OUR's projects in the telecoms and electricity sectors.

Prior to joining OUR, Jon was a Strategy and Economics Manager at the Independent Television Commission (ITC) and previously he worked for a number of consultancies specialising in environmental economics primarily in the water sector advising water companies, Ofwat, Environment Agency, European Commission, EBRD and the World Bank. Jon has a BSc in Economics and Politics from the University of Bath and is currently completing his MBA with the University of Warwick.

The Office of Utility Regulation

John worked with OUR when it was initially set up in 2001 and returned in April 2003 after spending eight months as regulatory adviser with the Australian telecoms incumbent, Telstra.

John has a strong background in telecommunications regulation and leads on key telecoms projects in OUR ranging from interconnection, licensing and dispute resolution to key international contacts. He also contributes, with the rest of the team to the postal and electricity projects.

Before joining OUR John worked for six years in communications regulation in Ireland, four in telecommunications and two dealing with broadcasting and cable TV. He started his career in the Irish Civil Service having studied Electronic Engineering at Galway Institute of Technology.

John Curran



Sean McComish



Sean joined OUR in October 2001 and has worked on key economic projects particularly in the electricity and telecommunications sectors. As well as taking the lead in the development of the strategic review of electricity policy, he also plays a key role in the economic analysis underpinning OUR's price control regime, as well as economic issues in relation to competition analysis.

Before joining the OUR he worked for two years at the Independent Television Commission (ITC) as a Strategy and Economics Manager, specialising in the economics associated with licence valuation and competition law. Sean holds an honours and masters degree in Economics, as well as postgraduate qualifications in Competition Law, and is currently studying for his MBA with the University of Warwick.

Nicola became part of the OUR team in May 2002 and since then has managed the small Office and provided support to all the team assisting with projects across all sectors.

Nicola also manages all communications with the media, and as Customer Care Manager, is responsible for responding to and investigating complaints against OUR Licensees.

Before joining the OUR Nicola worked as an Environmental Consultant and holds a degree in Environmental Management and Technology.

Nicola Whittaker





It is OUR policy to operate with a small core team of **professional staff** and bring in short term, expert resources as needed to meet the objectives and work programme of the Office. 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.

During 2003, the following consultants and **external specialists** worked with the OUR on a range of specific projects, as well as in providing general support for the OUR work programme:

- **322 Consulting** and **Jay Lakshman** worked as part of the OUR team on key telecommunication work items including interconnection, pricing and service levels.
- **Andersen Management International** (AMI) were engaged in 2002 and continued to work in 2003 on the evaluation and award of 2G and 3G mobile telecommunications licences in Guernsey.
- **Brockley Consulting Ltd** provided assistance in the review of Guernsey Post Ltd's application for tariff increases.
- **Design & Implement Ltd** continued to support the OUR work in the electricity sector during the year.
- **GOS Consulting Ltd** advised on a wide range of telecommunication projects including interconnections, Reference Offer review, regulatory accounts and others.
- **Mott MacDonald** were engaged by the Board of Industry and OUR to assist in the strategic review of Guernsey's electricity sector.
- OUR's legal advice during 2003 was provided by **Babbe Le Pelley Tostevin** and **Landwell Solicitors**.

The input and support of the OUR's wide network of experts was fundamental in achieving the Offices' objectives during the year.

OUR Communication

OUR operates in a transparent and open way, and seeks to consult with as wide a range of stakeholders as possible on all key decisions. The OUR website (www.regutil.gg) is heavily used as a means of communicating with the operators within the regulated industries and with interested members of the public on a fair and open basis. 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. OUR publishes all decisions with reasons and a commentary on the views received.

The Office of Utility Regulation

The website has continued to be invaluable and an efficient method of conducting public consultations and disseminating information with **40 papers** published in 2003. A full list of all the documents published in 2003 is at **Annex B**.

The Director General and OUR staff also held public meetings and presentations during the year, principally in the postal sector, as well as speaking to various interest groups including, GSCCA, GILA and Chambers of Commerce.

The Director General and her staff also met and had discussions with a wide range of individuals and companies that are interested in or affected by the regulatory regime and OUR continues to be pleased to have an ongoing open communication process.

Contacts continued to be strong with UK regulators who have a major influence over matters relating to telephone numbers and frequency spectrum in the Bailiwick, as well as regulators and policy makers in a wide range of other jurisdictions.

OUR Work Programme

The OUR publishes its indicative work programme on its website and updates this regularly. However the Office also has to be able to react to specific issues that may arise and have a high priority for consumers or the market and the work programme is therefore flexible and can be adjusted as necessary.

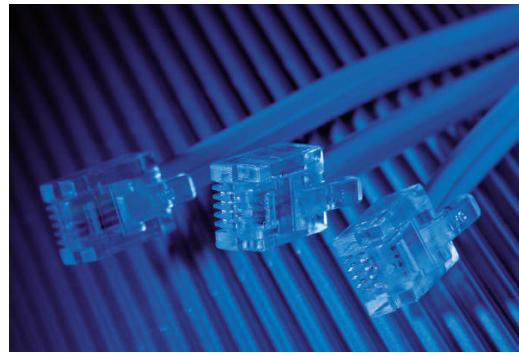
During 2003, the OUR work programme was affected by a case taken against the Office by Cable & Wireless Guernsey Ltd. The case was initially lodged in July 2002 and was heard during 2003 with the final decision due to be published early in 2004. Throughout 2003 a considerable amount of time had to be spent by the small team in managing and defending the case. As a result of this the OUR work programme saw some slippage.

In addition, the legal costs of the case were considerable in 2003, using up all reserves and diverting resources from other planned projects. The work programme and budget of OUR along with licence fees for the period 2004-2006 were revised in 2004 to take this into account.



The Global Telecoms Market

Following the turmoil of 2002, which saw a host of high profile global telecoms companies seek Chapter 11 protection in the US, 2003 was marked by signs that things might be starting to improve in the global telecoms market. In January 2003, NTL announced that it had completed its restructuring while in December **Global Crossing** – the first major casualty of the telecoms bust – announced that it too had completed its turnaround. In October the US Courts cleared MCI's (formerly MCI Worldcom) restructuring plan which cleared the way for the company to emerge from Chapter 11 in 2004.



There were other signs that telecoms market may have turned a corner with the big European players showing encouraging evidence of recovery. **Duestche Telecom** announced that it had returned to profitability, driven by its mobile business. In November 2003 BT announced a 26% increase in profits for the 6 months to September 2003, reflecting the fact that incumbents have remained particularly resilient during the downturn. A major focus for all telecoms companies in 2003 was debt reduction. Cable & Wireless, the parent of Cable & Wireless Guernsey Ltd, exited the US market and refocused its remaining businesses throughout the world.

Mobile business remained strong with most operators consolidating their customer bases, particular in the high penetration markets, and focus turning to measures to increase ARPU (average revenue per user). The main UK mobile operators, Vodafone, O2 and T-Mobile all announced increased revenue, profit figures and subscriber numbers, though growth was at lower levels than previous years. Not surprisingly all mobile players have sought to expand on the massive success of SMS with the introduction of **picture messaging, polyphonic ringtones** and other consumer driven services. It is estimated that in 2003 over 20 billion text messages were sent over the 4 UK networks, a 25% increase on 2002, with 111 million text messages sent on New Years Day 2004 alone.

On the legislative side, the main development was the coming into force of new European Directives covering the communications market. Six new directives have now replaced the 20-odd directives that existed before July 2003. The focus has shifted away from the traditional telecommunications market to the electronic communications market which embraces converging technologies and includes the rapidly growing IP and data sectors.

In the UK, the new regulatory body for the communication market, Ofcom, took over the roles of the five separate regulatory agencies that existed prior to 29 December 2003, including Oftel, ITC and the Radiocommunications Agency.

Telecommunications: Overview

The Guernsey Telecoms Market

2003 saw the final piece of the liberalisation jigsaw being put in place in the Guernsey telecommunications market, with the licensing of a second operator to provide mobile networks and services. In March 2003, following a competitive tender process, **Wave Telecom** was issued with licences to provide both 2G and 3G services and is the only licensee in the Bailiwick to hold licences for both technologies. With this step, all segments of the Guernsey telecoms market are open to competitive entry.

The year also saw the first hearing of an appeal against a decision of the OUR before the **Utility Appeals Tribunal** in October 2003. The appeal, brought by Cable & Wireless Guernsey against a decision of the OUR in relation to the development of the interconnect regime, was heard over two days with both Wave Telecom and **Newtel Solutions** joined as interveners. A decision was expected early in 2004.

Cable & Wireless Guernsey published its first set of Regulatory Accounts in October 2003 – the first time such accounting information has been made publicly available from any of the utility companies in Guernsey. The accounts, covering financial years 2001 and 2002/03, were published following lengthy delays and after a formal Direction from the OUR.

2003 also saw significant changes to the Directory Enquiry service market in the UK with the introduction of several new Directory Service providers in September 2003. As a result new services also became available in the Bailiwick although by the end of 2003 this had been limited due to constraints on the Cable & Wireless Guernsey network. However these will be removed early in 2004 with the result that Bailiwick users will have access to a much wider range of service providers.

Price changes to be introduced by **Cable & Wireless Guernsey** in July 2003 including increases in charges for local calls and line rentals and decreases in calls to the UK and internationally, resulted in the OUR undertaking an investigation of the possible impact the changes may have on the company's price control compliance. Following the initiation of the investigation Cable & Wireless Guernsey announced further changes resulting in significant drops in the costs of national and international calls.



www.wavetelecom.com

www.newtelsolutions.com

www.cwguernsey.com

www.utilityappeals.org.gg

Telecommunications: Activity Report



Introduction

2003 was a significant year for the OUR and the telecoms market in the Bailiwick and was marked by a series of firsts. It saw the completion by the Office of the liberalisation of the entire telecoms market with the opening to competition of the mobile market and the award of the **first 3G licence in the Channel Islands**.

The first set of **Regulatory Accounts** by any of the licensed utilities were published when Cable & Wireless Guernsey made its regulatory accounts for 2002/03 available on its website.

There was also the first hearing by the Utility Appeals Tribunal of an **appeal** against a decision of the OUR. The appeal, taken by Cable & Wireless Guernsey in July 2002, was heard in October 2003 before a three person tribunal.

The OUR continued its work on the core work areas such as the development of the interconnection and access regimes and the ongoing monitoring of Cable & Wireless Guernsey's compliance with its price control requirements. To enable it to carry out work in the areas of numbering and frequency spectrum, the OUR continued to maintain a close working relationship with **Oftel** and the **Radiocommunications Agency** in the UK (both of which became part Ofcom in December 2003).

Fixed Telecoms Market

With the fixed telecoms market fully opened to competition the OUR concentrated on creating an environment to enable the development of that competition and to **facilitate innovation** by new and existing licensees.

Consultations were held on a number of new initiatives being considered in other markets. These included developments in Corporate Numbering that were considered by Oftel in April 2003 (**OUR 03/11**) and ENUM (Electronic Numbering) – a new numbering scheme being considered and trialled that can allow an individual to be contacted using only one set of contact details, but using any of several different communications devices (**OUR 03/16**).

In September 2003 the Office consulted on whether to consider a separate licensing scheme for ISPs that are solely involved in such services with a view to facilitating the development of that segment of the market while taking into account rapid technological developments such as the spread of voice over IP (**OUR 03/27**).

In June the OUR also announced the availability of licences for Broadband Fixed Wireless Access in Guernsey (**OUR 03/14**). The licences, which are awarded by the Radiocommunications Agency in the UK (now Ofcom), allow for the construction of a wireless network which companies could use to make the “last-mile” connections between users’ premises and a telecommunications network without using the incumbent fixed network.

Telecommunications: Activity Report

Mobile Telecommunications Licensing

A competition for mobile licences had been launched at the end of 2002 and the first quarter of 2003 was taken up with examining an application by **Wave Telecom** for licences for both 2G and 3G mobile services. The Director General, with the assistance of Anderson Management International (AMI), concluded her review of the application in March 2003 and awarded Wave Telecom both a 2G and a 3G mobile license.

The award of the 3G licence represents the **first 3G mobile licence** awarded in the Bailiwick and the Channel Islands and marks the final stage of the liberalisation of the Guernsey telecoms market that commenced in October 2001. Now all sectors of the telecoms market are open to competitive market entry. By the end of 2003 Wave Telecom had commenced the construction and roll-out of its network with services due to be launched in the 2nd Quarter of 2004.

Third-generation protocols in mobile telephony support much higher data rates, measured in Mbits/second, intended for applications other than voice. 3G will support broadband and bandwidth-hungry applications such as full-motion video, videoconferencing and full Internet access.

-Marconi

Interconnection and Access

In August 2003 the OUR initiated a review of the Reference Offer (RO) for interconnection and access that Cable & Wireless Guernsey is required to make available to new entrants (**OUR 03/22**). The first RO had been prepared in July 2002 and the Director General wished to see whether it still met the needs of the new entrants one year on. In addition the Director General took the opportunity in this review to open a debate on further competition enhancing measures such as the possible introduction of **Carrier PreSelection** and **Number Portability**. In November 2003 the report on this consultation was published (**OUR 03/32**) which required Cable & Wireless Guernsey to make certain amendments to the RO and present these to the market in early 2004.

Separate to the review of the text of the RO, the OUR also looked to introduce charges for the interconnection and access services contained in the RO that would be compliant with the Telecoms Law. The initial charges were set in July 2002 by the OUR partly based on benchmark rates in other countries. However the Telecoms Law requires that charges for such services should be “*transparent, cost oriented and that promote efficiency and sustainable competition and maximise consumer benefit*”.

Cable & Wireless Guernsey was requested to prepare rates that would comply with this requirement. In November 2003 it submitted revised charges for the RO services. Following a review of these, the Director General did not accept that they were in compliance with the Law and following a further benchmarking exercise by the OUR in December 2003 directed that the company cut its interconnection and access charges by between 15% and 20% (**OUR 03/38**).

Following this direction the OUR commenced a full review of the C&WG submission and plans to report on this in the second quarter of 2004.

Telecommunications: Activity Report



Regulatory Accounts

A considerable amount of effort was spent in 2003 on getting the first sets of Cable & Wireless Guernsey's Regulatory Accounts published. These covered the years 2001 and 2002/03, and the accounts for 2002/2003 were published in October 2003 following a series of Directions by the Director General ([OUR 03/18](#), [OUR 03/20](#), [OUR 03/29](#), [OUR 03/31](#), [OUR 03/36](#)).

Following the publication, the accounts were found to contain a number of technical breaches of the OUR Guidelines which were published in March 2002. Cable & Wireless Guernsey rectified those breaches and the accounts were republished. In addition the Director General set out the level of information that Cable & Wireless Guernsey will be required to publish when its 2003/04 accounts are published.

At the end of 2003 the Director General had commenced a detailed review of the Regulatory Accounts and aims to complete this review in the 2nd quarter of 2004.

Price Control

Work on monitoring Cable & Wireless Guernsey's compliance with its price control obligations continued in 2003. The price control, which had been introduced in 2002, sets price controls on Cable & Wireless Guernsey across four main baskets of products in the fixed telecoms market in which the company has a dominant position.

In addition to this regular compliance work the OUR initiated a separate interim investigation of Cable & Wireless Guernsey's compliance in June 2003 ([OUR 03/15](#)). This was prompted by an announcement by the company of a wide range of changes to its prices – both in terms of the charges for certain services and the structure of the charging – which it was proposing to introduce in July 2003. Because of the number of changes, the magnitude of some of the individual changes and the complexity of the overall changes, the OUR carried out a detailed examination to forecast compliance with the price control and to examine compliance with other aspects of Cable & Wireless Guernsey's licence.

The investigation confirmed that Cable & Wireless Guernsey was clearly at significant risk of not being in a position to comply with its price cap obligations for the period ([OUR 03/17](#)). The company accepted the validity of the OUR's concerns and consequently decided to introduce further price changes in July 2003. This resulted in further price reductions for certain call times and certain other changes to the proposals announced previously.

Utility Appeals Tribunal

Following the launch of an appeal against a decision of the Director General in July 2002, 2003 saw the first sitting of the Utility Appeals Tribunal. The Tribunal, which was set up under the Regulation of Utilities Law, sat three times in 2003. In June 2003, almost a year after the appeal was first lodged by Cable & Wireless Guernsey, it held its first sitting which concentrated on directions as to case management. A further directions hearing was held in July 2003.

The full hearing of the appeal took place in October 2003 over two days. By the end of the year a decision had not yet been handed down by the Tribunal.



Annual Report: 2003

Guernsey Post Customer Charter

- Make posting facilities easily accessible and appropriate to the community need.
- Make letter deliveries to each local address 6 days a week.
- Collect and despatch mail from all posting facilities 6 days a week.
- Publish clear and current information on competitively priced, secure and reliable services.
- Report on our performance, against the standards set out in the Customer Charter.
- Monitor customer satisfaction with our services and seek improvements in all areas.
- Provide easily accessible, consistently professional, courteous and considerate service.
- Provide our Customer Service contact details in all communications, throughout the retail network and on roadside boxes.
- Respond swiftly and efficiently to customer enquiries and complaints.
- Exercise the utmost integrity in providing services.



World Postal Markets

The postal services market represents an important part of the wider communications and logistics market. Companies and individuals who buy postal products often have several choices available to them for transmitting items or communicating information, for example email and telecommunications, and for larger postal items freight and logistics services. The development of new technology continues to widen this choice of substitutes.

Despite these competitive threats mail volumes have consistently grown over time and changes in demand seem to be linked to the general performance of the global economy. One estimate puts the value of the global letters market at £113bn.

Across Europe, postal markets are **liberalising**, albeit slowly in some countries. Privatisation has been flagged or is rumoured for many postal operators and alliances and mergers are the norm. Despite the growth in mail over time, the traditional letter mail volumes are showing declines, while new products, technology and innovation are all providing opportunities for traditional postal operators, in their home markets and outside.

Within the UK, approximately 28 billion items are handled by all operators in the market. Developments in the UK postal market are particularly important for Guernsey as Royal Mail is Guernsey Post Ltd's largest trading partner. Royal Mail which used to enjoy a statutory monopoly, still retains well over 99% of the letters market in the UK, remaining by far the dominant player in that market.

Postcomm, the licensing authority and regulator in the UK has awarded 14 interim licences to 13 operators since its establishment and to date four long term licences have granted to new operators including Express Dairies, Hays, TPG Post UK, and UK Mail. These new operators have been targeting niche services for business customers but have yet to make large inroads into Royal Mail's market share and together, they accounted for only 0.27% of the licensed letter market in 2002/03.

Royal Mail made a £3 million profit before tax in the first half of the financial year representing the first time in five years it has been in the black at the half year. Part of the reason for this resulted from Royal Mail's 1p increase in basic First and Second class stamps in May in accordance with its **price control** set by Postcomm. This drove the profit on operations in the letters business to £161 million in the first half of the year, although these half yearly figures excluded the effect of the industrial action that occurred in the autumn of 2003.

Post: Overview

Guernsey Postal Market

While Guernsey is small, these global changes, and particularly changes in the UK seriously affect the Guernsey postal market due to the large volumes of mail that Guernsey sends to the UK and internationally. This includes business and private mail. At present all such mail is handed by **Guernsey Post** to **Royal Mail** in the UK for onward delivery and so the UK market is of particular interest to Guernsey.

2003 proved to be a turbulent year of change for Guernsey Post, with changes in senior management and the Board. The company implemented a series of change management projects designed to improve the company's operations and address deficiencies particularly in quality of service, identified by an investigation by the OUR in January 2003.

It was also the first full year of operations at the new postal headquarters - Envoy House – using the new mechanised sorting equipment which involved changes in work practices and methods.

Most significant during the year was the renegotiation by Guernsey Post of its contractual arrangements with Royal Mail. Until recently the arrangement between Royal Mail and Guernsey Post had been that whilst Guernsey Post delivered all mail received from Royal Mail and Royal Mail in turn delivered all mail received from Guernsey Post, the companies did not in fact charge each other but assumed that the costs “balanced out”. This was based on the assumption that the same amount of mail flows in each direction. However, there is in fact significantly more mail going from Guernsey to the UK than vice versa.

As a result, the Royal Mail move to charge for the actual volumes of mail in each direction resulted in **significant increases** in charges to Guernsey Post for the services provided by Royal Mail. The effect of this was seen in Jersey where Jersey Post, which is in a similar position, increased rates with local mail increasing from 23p to 29p, Jersey to UK increasing from 29p to 30p. **Jersey Post** flagged that 2004 would see more price increases in postal services due to the Royal Mail charges.

However Guernsey Post is subject to a different regulatory regime and any price increases for its postal services have to be assessed by the OUR. In November Guernsey Post submitted a tariff change application to the OUR and a final decision on this would be made in 2004.

Introduction

The year began with an investigation into the service failure experienced by postal customers during Christmas 2002 which led to a series of directions from the Director General requiring Guernsey Post to implement remedial measures to improve the company's operational performance.

During 2003 the Director General was able to build upon the research and analysis carried out in the previous year and, following extensive consultation with interested parties, introduced formal **quality of service** measures and targets for Guernsey Post which came into effect in 2003.

The OUR helped Guernsey Post to develop its regulatory accounting system and the format of its business plan in time to be able to make its crucial application to change its postal tariffs. In November the company submitted its proposals for **tariff changes** which was then issued by the OUR for public consultation and assessed independently by the OUR. A decision on the company's proposals would be made early in 2004.

The OUR also concluded two investigations into Guernsey Post Limited following disputes between the company and its customers.

Investigation of December 2002 Service Failure

In January, the OUR issued an Information Note (**OUR 03/01**) which described its investigation into the quality of postal services in Guernsey in light of the disruption to postal customers within the Bailiwick over Christmas 2002. The OUR's investigation focused on three main areas:

- the significant delays in the delivery of post over the period of December 2002/January 2003 with a backlog of mail in excess on 350,000 items;
- the failure by Guernsey Post to provide consistent postal delivery to all addresses in the Bailiwick six days a week since commercialisation (although data available from November 2000 showed the Post Office Board did not provide a daily service to addresses in the Bailiwick either); and
- the company's inadequate customer complaint handling procedures and information provision both during the service difficulties and in general.

The investigation report (**OUR 03/06**) was published in early March and concluded that the problems were due to a general failure to properly forecast, plan and manage a range of functions in the company. These problems were compounded by the inability of the management and workforce to jointly agree and secure sufficient cooperation from the workforce, at a reasonable cost, to provide the necessary labour to guarantee either the basic level of service, or to cope with the service difficulties encountered at Christmas 2002.

Post: Activity Report

Within this environment the company also had inadequate project planning and management systems in place leading to decisions on a number of issues being based on insufficient information, in particular with respect to the move to Envoy House just before the Christmas peak periods which triggered the service failure. Finally the OUR noted a failure of the corporate governance systems to identify the problems in the company, scrutinise decisions adequately and identify the need for remedial action in a timely fashion.

Having found Guernsey Post in breach of its licence the Director General gave notice of a number of detailed proposed directions which fell under three broad headings; preventative and remedial measures, universal postal service targets and redress to customers. Upon receipt of written representations and objections the Director General issued a final set of directions (**OUR 03/09**) to the company and monitored the company's compliance with the directions over the year.

The Director General was very pleased to be able to confirm Guernsey Post's compliance with all of the Directions (**OUR 03/25**), ultimately leading to a much improved and smoother service delivery at Christmas 2003.

Quality of Service

A major work programme item for the OUR during 2003 was consultation on the quality of postal services in Guernsey and the development, setting and monitoring of targets for key mail services used by postal customers in the Bailiwick.

At the beginning of the year, over 30 people attended an OUR public presentation (**03/02**) on the "Quality of Service for Postal Services in Guernsey". A separate workshop was held for bulk mailers who have an interest in specific postal services that are used by their businesses.

Taking the feedback from these meetings into account, in January, the OUR issued a consultation paper (**03/04**) looking at what performance indicators best reflected the Quality of Service required by postal customers within the Bailiwick. The paper also considered how the proposed quality of service for those indicators should be measured, what targets should be set for each quality of service indicator and how the information should be published.

Operating Environment

- Weather
 - Reliance on airport and impact of weather;
- Scale
 - Guernsey: 50 million mail items per annum
 - Royal Mail: 29,000 million mail items per annum
- Reliance on other operators;
 - 35% of all mail items leave the Bailiwick
 - 35% of all mail items enter the Bailiwick
 - 30% of all mail items remain within the Bailiwick

January 2003

QoS Target Levels

27

In May, a decision (**03/12**) on the quality of service consultation was published. Three types of quality of service indicators and targets were introduced.

- **End to end delivery times** and reliability of the mail from the customers' perspective: This measure of service was considered the most significant and of greatest interest to the majority of customers. In line with international best practice, targets were set using the J+n formula (where J is date of deposit and n the number of days to delivery) for six main mail flows.

- **Guernsey Post's internal operations:** These targets allow Guernsey Post to measure how well it is handling mail before it is handed to Guernsey Post's partners (mainly Royal Mail) for onward delivery and upon receipt of mail from its trading partners, allowing any local service problems to be isolated and addressed.
- **Key customer facing functions:** This included key performance indicators such as complaint resolution times and number of misdeliveries.

A direction (**03/24**) was issued in August to the company which formalised the requirement on Guernsey Post to comply with the specific targets set out in the earlier decision notice. The company was required to publish its performance against the quality of service targets and measures every six months and the first report would be published by the end of April 2004, whilst the company would continue to provide the OUR with regular quarterly updates.

Disputes

In December 2002 the OUR had received a request for dispute resolution concerning the closure of the **Arcade Post Office** ("Arcade") by Guernsey Post. The complainant believed that the Arcade facility was heavily used by the elderly and disabled members of society and consequently, the absence of this facility within St Peter Port would be of serious detriment to these customers.

The OUR investigation concluded (**03/10**) that in closing the Arcade, Guernsey Post was not in breach of its Licence Conditions and not in breach of its Universal Service Obligation. However during the course of the investigation it became clear that Guernsey Post did not collect sufficiently accurate and reliable data to measure what services were provided at the Arcade and the customer groups that used them. The complaint therefore led to a direction to Guernsey Post to develop a project plan and timetable for the development of a customer statistic compilation programme at all its post offices.

In June 2003 the Board of Industry's **Trading Standards Services** ("TSS") forwarded a complaint concerning a compensation claim disputed by Guernsey Post. The complaint was referred to OUR after a satisfactory outcome was not achieved following arbitration by TSS. The complainant claimed to have purchased insurance from Guernsey Post for a parcel containing an electrical item which was posted to the UK and was received at its destination in a damaged condition.

The OUR investigation concluded that there was not sufficient evidence to reject the complainant's claim for compensation and noted that there was some lack of clarity in Guernsey Post's procedures. Guernsey Post was directed (**03/30**) to award compensation to the complainant in the amount for which the complainant has produced a receipt. However, the OUR acknowledged the attempts taken by Guernsey Post to resolve the dispute and in particular the company's proposal to introduce new procedures to clarify Guernsey Post's parcel acceptance process.



Post: Activity Report

Postal Tariff Change Application

In November Guernsey Post submitted an application to make certain changes to its prices in 2004. The Guernsey Post application was put out to public consultation (**OUR 03/34**) during which time the OUR met with a number of stakeholders to help to inform the assessment of the company's proposals.

Guernsey Post noted that the principal driver for the company's request for tariff changes was a change to a number of its core costs including: Royal Mail's decision to renegotiate the contractual arrangements between **Royal Mail** and some Crown Dependencies, including Guernsey; increases in the costs of the company's other suppliers particularly airlines and shipping companies; and changes in the company's cost base following mechanisation.

The Director General's decision on the **postal tariff application** was announced early in 2004 following the OUR's own economic modeling and analysis of the company's proposals.

www.guernseypost.com



World Electricity Markets

In 2003, electricity moved centre stage when a number of spectacular outages across the developed world sent clear warning signals: the competitively priced, secure supplies of energy that have helped underpin economic growth in recent decades cannot be taken for granted.

The first and most severe outage was in North Eastern America and Canada on 14 August 2003. This was followed by various **power cuts** in Europe which saw London lose its power in the rush hour, blackouts throughout the majority of Italy and outages in parts of Scandinavia. The heat wave in France meant that EdF, the country's integrated power supplier, had to resort to warnings of power cuts as it struggled to cool its nuclear reactors. In Japan, **Tokyo Electric Power** (Tepco) had to shut 17 nuclear power stations due to safety concerns leaving Tokyo and other parts of Japan vulnerable to blackouts.



Although there was no single technical reason for the problems faced by various countries, it is clear that many problems are due to insufficient investment in transmission and/or generation capacity. This is largely because incentives to invest have been limited either due to political or regulatory uncertainty or the fact that electricity prices had been driven down to such an extent that investment over a 25-30 year time horizon was not viable.

Even the UK, which is generally seen to be a world leader in the development of competitive energy markets, has yet to solve the conundrum of generating market incentives to invest in reserve electricity margins without impinging on the competitive process for wholesale trading in electricity.

The events of 2003 have led to a shift in the mood across the energy sector in the developed world. Concern is growing that despite the existence of mothballed plant, longer term demand for power may not be met unless **investment incentives** can be improved. Greater emphasis is being placed on longer term planning and supply security rather than simply on liberalised markets producing competitive prices in the short to medium term.

The need for this investment, along with the cost of comprehensive EU legislation relating to emissions taxes, imply that retail prices are likely to increase in the coming years and western economies, that are heavily dependent on fuel costs, will have to face up to that reality.

Electricity: Overview

Guernsey Electricity Market

Guernsey's electricity market is not unaffected by international developments and particularly those in mainland Europe because, through the **Channel Island Electricity Grid** (CIEG), Guernsey's power system is connected to the systems in Jersey and France.

In recent years Guernsey has been importing the majority of its energy from France at marginal prices that are competitive when compared to the cost of generating on-island. This has led to short term environmental and technical benefits as on island emissions have reduced.

But developments in Europe suggest that attaining such benefits at competitive cost may become harder to achieve as time goes by. This is of great importance for how Guernsey sources its future energy needs and, along with security of supply issues, mean that Guernsey needs a clear yet flexible and transparent policy direction for the development of generation sources of energy into the future.

This issue and its potential impact on electricity prices underpinned much of OUR's work stream for the electricity sector throughout 2003.



www.electricity.gg

www.energy.gg

www.e-si.co.uk

Introduction

In 2003, following a consultation on price control for electricity in Guernsey, it became clear that a strategic review of the direction of Guernsey's generation sector was needed to develop a clear policy framework for Guernsey on issues such as independence, environmental concerns, **security of supply** and overall cost of electricity to the consumer and the economy. This review was started in 2003 so as to inform policy development in 2004 and price setting in 2005.

The States of Guernsey also issued further States Direction to OUR in relation to the supply of electricity to end customers and OUR made some adjustments to the licensing regime to implement a statutory monopoly in this sector for a number of years, subject to review.

Guernsey Electricity's quality of service results were also reviewed and revised and work continued work on the development and publication of Guernsey Electricity's regulatory accounts.

The Strategic Direction of Guernsey's Generation Sector

In March 2003, the OUR published a decision notice on the regulation of retail prices charged by Guernsey Electricity Ltd (**OUR 03/07**). **Prices were frozen** at their 2002 level for a variety of reasons including the need to clarify States policy objectives in key areas such as environmental impact, security and independence, and the level of costs that is considered necessary to fund efficient investment that meets those policy objectives.

Electricity plays a pivotal role in underpinning Guernsey's economic competitiveness and it is sensible to set electricity prices so as to ensure the provision of electricity from the "least cost" economic investment portfolio. However, as can be seen from electricity markets worldwide, there are other considerations such as security of supply and **environmental impact** which could increase costs but which might be politically and socially desirable. The OUR is concerned to ensure that the right balance is struck for the social and economic wellbeing of the Bailiwick.

For this reason the OUR approached the Board of Industry in 2003 to seek clarification on States policy. The Board, in May 2003, formally requested the Director General to research and assess the relative costs and benefits of the electricity generating options facing Guernsey to identify the impact of key strategic policy decisions on the market and on electricity prices to customers. The OUR and Board of Industry engaged **Mott MacDonald** to assist in this work.

This work started immediately and is due to be concluded in mid 2004, with a report being presented to the Department of Commerce and Employment (previously the Board of Industry). If there is a need for any **States policy decisions**, it is expected that the Department will bring the appropriate issues to the States for debate and decision.

Although the strategic review was commenced early in 2003, it is clear from events in the global market later in that year and the fact that European electricity prices are expected to increase, that the decision to consider the future strategic direction at this time is particularly timely for Guernsey.

Electricity: Activity Report

Licensing

In 2002 the States of Guernsey had requested that the Director General investigate Guernsey's retail electricity market and report back on the feasibility of introducing competition into this market in the future. The Director General reported to the BoI in November 2002 ([OUR 02/35](#)) and concluded that there was little scope for customer savings to be made that would provide for meaningful price based competition in electricity retailing in the short term. Furthermore, the cost of implementing that competition would be likely to be equal to, or greater than the level of potential savings to customers, thus negating the price benefits.

The States considered the OUR report at its meeting in January 2003 and resolved to issue States Directions to the Director General that;

- exclusive conveyance and supply licences be issued to Guernsey Electricity for the period ending 31st January 2012, on the proviso that the issue could be re-examined prior to this point, particularly if there were any changes in the OUR's underlying assumptions, and
- the generation market remain open to competitive entry.

The States Direction was issued at the end of January and the full text is in Annex A to this report. The OUR went on to modify Guernsey Electricity's licence to implement the Direction, publishing a notice of this in February 2003, OUR ([OUR 03/05](#)). Guernsey Electricity now holds exclusive licences to convey and supply electricity in Guernsey.

Quality of Service and Consumer Protection

Because the structure of the electricity market in Guernsey makes the development of competition unlikely in the short term, Guernsey Electricity effectively holds a monopoly or heavily dominant position across the entire electricity supply chain. Where there is a lack of competitive pressures, one area that is important to monitor is the quality of service provided to consumers as they have no alternative supplier to choose from.

Following commercialisation in February 2002, and in accordance with its licence, Guernsey Electricity published **service standards** across 17 quality of service indicators ranging from restoration of supplies to charges and payments. By the end of the year Guernsey Electricity had introduced compensation for failure to meet a number of publicised quality of service targets including replacing faulty service fuses, providing connections for new customers, faults relating to prepayment meters, changing meters and investigating voltage complaints within agreed time frames.

In order to ensure that these measures adequately protected consumers OUR issued a consultation paper in September 2003 ([OUR 03/28](#)) looking at:

- Extending the range of service standards and setting targets for additional services which Guernsey Electricity would be required to achieve;
- Tightening the targets for existing service standards;

"Quality regulation must be regularly monitored and reviewed. Standards should be periodically adjusted if necessary."

— Council of European Energy Regulators (CEER)

Electricity: Activity Report

- Changing the status of some standards from an overall standard to a guaranteed standard such that customers could claim compensation if Guernsey Electricity failed to achieve the required standard; and
- Changing the compensation regime in light of international best practice.

The report on this consultation was published in December 2003 (**OUR 03/40**) and resulted in various new service standards being included, as well as targets, **compensation levels** and the level of guaranteed standards all being brought into line with international best practise via a raft of measures effective from the 1st April 2004.

As well as increasing the formal level of consumer protection via the tightening of the service standards and the compensation regime in Guernsey, OUR also began a further work stream with Guernsey Electricity in order to set up a Consumer Council. This would provide a forum for both residential and business customers to discuss any areas relating to Guernsey Electricity's standard of service with a panel comprising of independent representatives.

Accounting Separation

The OUR consulted in September 2003 on the publication of Guernsey Electricity's regulatory accounts (**OUR 03/26**). **Regulatory accounts** differ from statutory accounts in that they separate the business into its various components and are focused on the cost and revenues that accrue to the regulated businesses/services. They provide significantly more detail than statutory accounts and are used worldwide by regulators to address concerns regarding the potential abuse of a dominant position or market power.

Guernsey Electricity's regulatory accounts are split into its generation, conveyance and supply and non-core businesses. This is particularly important to ensure that Guernsey Electricity's core business of generation, as well as conveyance and supply, are not cross-subsidising the company's non-core operations, for example sale of white goods.

In order to provide stakeholders with a high degree of transparency regarding the operation of Guernsey Electricity's business, the Director General proposed that Guernsey Electricity's regulated accounts should be **published in their entirety** and after consulting on this issue concluded that there was no substantive reason not to publish them in full. A report was published in December 2003 (**OUR 03/39**), along with a direction to Guernsey Electricity to publish its 2002/2003 regulatory accounts and all future regulatory accounts in full on its website and also to make hard copies available on request.



Annual Report: 2003



The Bailiwick of Guernsey

- **Guernsey.** Population around 60,000 and consist of the parishes of; Castel, Forest, St Andrew, St Martin, St Peter Port, St Pierre du Bois, St Sampson, St Saviour, Torteval and Vale.
- **Alderney.** 5 km long and 3 km wide with a population of 2,294.
- **Sark.** Population of 610 has a total area of only 5.45 km² and is some 4.8 km long and 2.4 km wide at its widest point.
- **Herm** Herm is only 2.4 km long and less than 1k wide covering an area of just 2km².
- **Jethou.** Located immediately south of Herm and has an area of approximately 18 44 acres, the island is not open to the public.
- **Brecqhou.** Located just west of Sark. It is politically a part of Sark and privately owned.
- **Lihou.** Connected to Guernsey by a causeway which is accessible at low tide.



Inclusion and Equity

The Bailiwick of Guernsey comprises a number of islands including Guernsey, Alderney, Sark, Herm, Jethou, Brecqhou and Lihou. Both **Alderney** and **Sark** have their own independent parliaments separate from the States of Guernsey.

Alderney and Sark come within the regulatory regime for telecommunications and postal services and the Law explicitly recognises the inclusion of these islands. Both islands operate separate electricity arrangements from those in Guernsey and the OUR does not have any jurisdiction in the other islands.

The development of the regulatory regime for post and telecommunications during 2003 affected Alderney and Sark as significantly as Guernsey. The OUR remains conscious of the special position of the other islands and the fundamental importance of communications services, and this was taken into account in particular in the postal quality of service investigation and when considering price changes in post and telecommunications services.

Telecoms Pricing

Because of the overarching ethos of the regulatory regime and States policy on universal services, the inhabitants of Alderney and Sark were affected by exactly the same price changes as Guernsey in 2003. The effect of the OUR investigation which led to even lower prices for some UK and international calls was also extended to those islands.

Postal Services

Regrettably the postal service disruptions of Christmas 2002 also affected residents of Alderney and Sark and the OUR took this into account when concluding its investigation. The extensive consultation on quality of postal services in 2003 recognised the specific transport network to the islands and the effect this had on mail delivery. The island's postal service targets were therefore integrated into the overall Bailiwick targets to ensure that the **quality of service** throughout the islands would be **uniform**.

Mobile Telecommunications Competition

When licensing a second mobile telecommunications operator in the Bailiwick the OUR explicitly included obligations on the new licensee – Wave Telecom – to roll out all of its services to all of the Bailiwick. This will ensure that the residents of Alderney and Sark have the benefit of being able to choose from competing mobile operators as well as the benefit of new innovative **3G services**, as customers in Guernsey.

The OUR will continue to regulate in the interests of all customers of utility services, including post and telecommunications customers in Alderney and Sark



Annual Report: 2003

Financial Statements and Report for the Period 1 January 2003 to 31 December 2003 for the Public Utilities Regulation Fund

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Foreword to the Accounts

2003 was the second full calendar year of operation for the Office of Utility Regulation. During that period the fees payable to the Office of Utility Regulation were paid into the Public Utilities Regulation Fund which was initially established in 2001. Fees were collected from licensees in the three regulated sectors of telecommunications, post and electricity.

Regulation of utilities requires a keen understanding of all the facets of the industries and an ability to combine expertise in law, engineering, accounting, audit, economics and business analysis to develop innovative and practical solutions to facilitate market development.

During 2003 the Office was staffed by four fulltime officers as well as the Director General. The Office occasionally used temporary staff for additional support and employed consulting expertise during the year to enable it to carry out its functions.

The OUR faced exceptional legal costs during 2003, amounting to £313,975, more than a five fold increase over legal fees in 2002. These fees were primarily as a result of the first case taken against a decision of the OUR which was heard by the Utility Appeals Tribunal.



Public Utilities Regulation Fund

Fund Information

DIRECTOR GENERAL: Ms R Finn

OFFICE ADDRESS:
Suites B1&B2
Hirzel Court
St Peter Port
Guernsey
GY1 2NH

AUDITORS:
Chandlers Limited
Chartered Accountants
Anson Court
La Route des Camps
St Martin's
Guernsey

Public Utilities Regulation Fund

Report of the Director General for the Period 1 January 2003 to 31 December 2003

I have pleasure in submitting the annual report and audited financial statements for the Public Utilities Regulation Fund for the period ended 31st December 2003.

Principal Activities

The Office of the Director General of Utility Regulation was established in 2001 under the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. The functions of the Office relate to the regulation and licensing of the telecommunications, electricity and postal industries. The Office is funded by income received from the regulated industries and some funding from the Board of Industry.

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 and the income or deficit of the Public Utilities Regulation 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;
- 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 Board of Industry. The Director General, with the approval of the Board of Industry, has appointed Chandlers Limited as the auditors to the Public Utilities Regulation Fund.

The audited accounts shall be submitted to the Board of Industry which shall in turn submit them together with the auditors' report thereon to the States with the Director General's annual report

Auditors

The auditors, Chandlers Limited, have indicated their willingness to continue in office.



Regina Finn
Director General of Utility Regulation
12th July 2004

Public Utilities Regulation Fund

Report of the Independent Auditors to the Members of the Public Utilities Regulation Fund

We have audited the financial statements of Public Utilities Regulation Fund for the year ended 31 December 2003 on pages thirty nine to forty two. These financial statements have been prepared under the historical cost convention and the accounting policies set out therein.

This report is made solely to the Fund's members, as a body, 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 Fund's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of the Director General and auditor

As described on page thirty seven the Fund's Director General is responsible for the preparation of financial statements in accordance with applicable law and United Kingdom Accounting Standards.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and United Kingdom Auditing Standards.

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. We also report to you if, in our opinion, the Report of the Director General is not consistent with the financial statements, if the Fund has not kept proper accounting records, if we have not received all the information and explanations we require for our audit, or if information specified by law regarding the Director General's remuneration and transactions with the Fund is not disclosed.

We read the Report of the Director General and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Director General in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Fund's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In the opinion the financial statements give a true and fair view of the state of the Fund's affairs as at 31 December 2003 and of its deficit for the year then ended and have been properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

Chandlers Limited

Chandlers Limited
Chartered Accountants
Anson Court
La Route des Camps
St Martins, Guernsey
Dated: 12th July 2004

Public Utilities Regulation Fund



Income and Expenditure Account for the Year Ended 31 December 2003

	2003	2002
	Notes	£
		£
INCOME		
License fees	793,886	732,381
Grants	-	287,359
Bank interest	8,319	1,125
	<hr/>	<hr/>
	802,205	1,020,865
EXPENDITURE	<hr/>	<hr/>
	905,142	915,887
(DEFICIT)/SURPLUS FOR THE YEAR ENDED 31 DECEMBER 2003	<hr/>	<hr/>
	(102,937)	104,978
TRANSFER TO CONTINGENCY RESERVE	<hr/>	<hr/>
	102,937	(104,978)
NET OPERATING SURPLUS FOR THE YEAR/PERIOD	<hr/>	<hr/>
	-	-

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 notes form part of these financial statements

Public Utilities Regulation Fund

Balance Sheet 31 December 2003

	Notes	2003		2002	
		£	£	£	£
FIXED ASSETS:					
Tangible assets	4		32,185		43,634
CURRENT ASSETS:					
Debtors	5	8,294		170,972	
Cash at Bank		185,147		270,890	
		<hr/>	193,441	<hr/>	441,862
CREDITORS: Amounts falling due within one year					
	6	158,468		315,401	
NET CURRENT ASSETS:					
		<hr/>	34,973	<hr/>	126,461
TOTAL ASSETS LESS CURENT LIABILITIES:					
		<hr/>	67,158	<hr/>	170,095
RESERVES:					
Contingency reserve		67,158		170,095	
		<hr/>	67,158	<hr/>	170,095

Regina Finn

Director General of Utility Regulation

Dated: 12th July 2004



The notes form part of these financial statements



Notes to the Financial Statements for the Year Ended 31 December 2003

1. ACCOUNTING POLICIES

Accounting convention

The financial statements have been prepared under the historical cost convention.

Income

Income represents net invoiced licensed fees and grants received from the States of Guernsey.

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 (2002—operating surplus) is stated after charging:

	2003	2002
	£	£
Depreciation—owned assets	11,634	11,597
Auditors' Remuneration	<u>2,200</u>	<u>2,000</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

4. TANGIBLE FIXED ASSETS

	<u>Office Equipment</u>	<u>Fixtures and Fittings</u>	<u>Computer Equipment</u>	<u>Totals</u>
	£	£	£	£
COST:				
At 1 January 2003	35,891	3,065	19,028	57,984
Additions	<u>185</u>	<u>-</u>	<u>-</u>	<u>185</u>
At 31 December 2003	<u>36,076</u>	<u>3,065</u>	<u>19,028</u>	<u>58,169</u>
DEPRECIATION:				
At 1 January 2003	8,886	707	4,757	14,350
Charge for Period	<u>7,215</u>	<u>613</u>	<u>3,806</u>	<u>11,634</u>
At 31 December 2003	<u>16,101</u>	<u>1,320</u>	<u>8,563</u>	<u>25,984</u>
NET BOOK VALUE:				
At 31 December 2003	<u>19,975</u>	<u>1,745</u>	<u>10,465</u>	<u>32,185</u>
At 31 December 2002	<u>27,005</u>	<u>2,358</u>	<u>14,271</u>	<u>43,634</u>

5. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2003	2002
	£	£
Grants	-	152,678
Licence fees due	-	10,000
Prepayments	8,294	8,294
	<u>8,294</u>	<u>170,972</u>

6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2003	2002
	£	£
Bank Loans and overdrafts	-	7,093
States Loan	-	150,000
Trade creditors	129,274	84,584
Accruals	29,194	73,724
	<u>158,468</u>	<u>315,401</u>

Public Utilities Regulation Fund

Detailed Income and Expenditure Account

	2003		2002	
	£	£	£	£
INCOME:				
Post Office revenue	120,000		120,000	
Telecoms revenue	493,886		447,381	
Electricity revenue	180,000		165,000	
Grant—Board of Industry	-		287,359	
	<hr/>	<hr/>	<hr/>	<hr/>
		793,886		1,019,740
OTHER INCOME:				
Bank interest	<hr/>	8,319	<hr/>	1,125
	<hr/>	<hr/>	<hr/>	<hr/>
		802,205		1,020,865
EXPENDITURE:				
Salaries & Staff Costs	315,781		271,297	
Consultancy Fees	189,344		506,820	
Legal Fees	313,975		56,787	
General Overheads	71,625		69,204	
	<hr/>	<hr/>	<hr/>	<hr/>
		890,725		904,108
	<hr/>	<hr/>	<hr/>	<hr/>
		(88,520)		116,757
FINANCE COSTS				
Interest—States of Guernsey loan	2,582		-	
Bank charges	201		182	
	<hr/>	<hr/>	<hr/>	<hr/>
		2,783		182
	<hr/>	<hr/>	<hr/>	<hr/>
		(91,303)		116,575
DEPRECIATION				
Office Equipment	7,215		7,178	
Fixtures and Fittings	613		613	
Computer Equipment	3,806		3,806	
	<hr/>	<hr/>	<hr/>	<hr/>
		11,634		11,597
	<hr/>	<hr/>	<hr/>	<hr/>
		(102,937)		104,978

This page does not form part of the statutory financial statements



Annual Report: 2003

Annex A: States Directions; Telecoms

States Directions to the Director General in relation to telecommunications that were in force during 2003 are set out below in accordance with Section 8(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Telecommunications: Universal Service Obligation

The States resolved to give the following direction to the Director General of 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.

Annex A: States Directions; Telecoms

Telecommunications: First Licensee

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.

Telecommunications: 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:

The provision of telecommunications networks and services in the Bailiwick of Guernsey shall be opened up to competition at the earliest possible time consistent with 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

States Directions to the Director General in relation to post that were in force during 2003 are set out below in accordance with Section 8(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

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.

Post: First Licensee

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.



Annex A: States Directions; Post

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

States Directions to the Director General in relation to post that were in force during 2003 are set out below in accordance with Section 8(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Electricity: Universal Service 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 ensure a Public Supply Obligation would be in place.

Electricity: First Licensee

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.

Electricity: 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 31st 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.



Annex A: States Directions; Electricity

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 31st January 2012.

Annex B: Documents Published in 2003

- 03/01 Postal Quality of Service in Guernsey—Information Notice
- 03/02 Quality of Service for Postal Services in Guernsey—Public Presentation
23rd January 2003
- 03/03 Notice of Proposal to Modify the Licences issued to Guernsey Electricity Ltd under Section 2(1) of the Electricity (Guernsey) Law 2001
- 03/04 Guernsey Post Quality of Service—Consultation Paper
- 03/05 Notice of Modification to Licences issued to Guernsey Electricity Ltd under Section 2(1) of the Electricity (Guernsey) Law, 2001
- 03/06 Report on Findings of OUR Investigation and Notice of Proposal to issue Directions to Guernsey Post Ltd under Section 31 of the Post Office (Bailiwick of Guernsey) Law, 2001
- 03/07 Price Regulation of Electricity—Report on the Consultation Paper and Decision Notice
- 03/08 States Directions to the Director General of Utility Regulation—Information Notice
- 03/09 Postal Services in Guernsey—Notice of Directions in Accordance with Section 31 of the Post Office (Bailiwick of Guernsey) Law, 2001
- 03/10 Guernsey Post Ltd: Investigation into the closure of the Arcade Post Office—Summary of Finding in Dispute D01/02
- 03/11 Consultation Document on the Allocation of Corporate Number Ranges in response to a Consultation issued by the UK telecoms regulator (Oftel)
- 03/12 Guernsey Post Ltd: Quality of Service—Report on the Consultation, Decision Notice and Direction
- 03/13 Corporate Numbering: Oftel Consultation on New Options for Businesses—Information note on Extension of Deadline
- 03/14 Broadband Fixed Wireless Access; Opportunities to apply for Licences in the Bailiwick of Guernsey—Information Note
- 03/15 Telecommunications Price Changes by Cable & Wireless Ltd—Information Note
- 03/16 ENUM: Accessing multiple Customer Services through Telephone Numbers: Opportunities for Guernsey—Information Note
- 03/17 Telecommunications Price Changes by Cable & Wireless Guernsey: Conclusion of Interim Investigation—Information Note
- 03/18 Cable & Wireless Guernsey: Separated Accounts: Notice of Proposal to issue a Direction to Cable & Wireless Guernsey Ltd under Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001
- 03/19 Cable & Wireless Guernsey: Reference Offer: Notice of Direction to Cable & Wireless Guernsey Ltd in accordance with Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001

Annex B: Documents Published in 2003

- 03/20 Cable & Wireless Guernsey: Separated Accounts: Notice of Direction to Cable & Wireless Guernsey Ltd under Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001
- 03/21 Cable & Wireless Guernsey: Reference Offer: Information Notice with regard to Proposal to issue a Direction to Cable & Wireless Guernsey Ltd in accordance with Section 27 of the Telecommunications (Bailiwick of Guernsey) Law, 2001
- 03/22 Review of Cable & Wireless Guernsey's Reference Offer for Interconnection and Access—Consultation Document
- 03/23 Publication of Cable & Wireless Regulatory Accounts—Consultation Documents
- 03/24 Guernsey Post Ltd: Quality of Service—Notice of Direction to Guernsey Post Ltd under condition 14.1 of its Licence to provide Postal Services
- 03/25 Update on Guernsey Post Ltd's compliance with Directions—Information Notice
- 03/26 Publication of Guernsey Electricity Ltd's Regulatory Accounts—Consultation Document
- 03/27 Licensing of Internet Access in the Bailiwick of Guernsey—Consultation Document
- 03/28 Guernsey Electricity Ltd Quality of Service—Consultation Document
- 03/29 Publication of C&W Guernsey's Regulatory Accounts—Direction to Cable & Wireless Guernsey Ltd in accordance with condition 27.1 of Cable & Wireless Guernsey's Fixed Telecommunications Licence and Section 5 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001
- 03/30 Guernsey Post Ltd: Investigation into Dispute D01/03—Summary of Finding
- 03/31 Publication of C&W Guernsey's Regulatory Accounts: Notice of Proposal to amend a Direction to Cable & Wireless Guernsey Ltd
- 03/32 Review of Cable & Wireless Guernsey's Reference Offer for Interconnection and Access—Report on the Consultation and Decision Notice
- 03/33 Proposed Decisions under the Telecommunications (Bailiwick of Guernsey) Law, 2001—Proposed Application of the Code to Wave Telecom Ltd.
- 03/34 Guernsey Post Ltd's Proposed Tariff Changes—Consultation Paper
- 03/35 Decision under the Telecommunications (Bailiwick of Guernsey) Law, 2001—Application of the Code to Wave Telecom Ltd's 2G and 3G Mobile Licences
- 03/36 Publication of Cable & Wireless Guernsey's Regulatory Accounts—Amendment to a Direction to Cable & Wireless Guernsey Ltd
- 03/37 Guernsey Post's Proposed Tariff Increases—Information Notice: Notice of Extension of Deadline for Responses to Consultation Paper

Annex B: Documents Published in 2003

- 03/38 Reference Offer for Interconnection and Access: Rates—Direction to Cable & Wireless Guernsey Ltd in accordance with Section 10(3) of the Telecommunications (Bailiwick of Guernsey) Law, 2001
- 03/39 Publication of Guernsey Electricity Ltd's Regulatory Accounts: Direction to Guernsey Electricity Ltd in accordance with Condition 16 of Guernsey Electricity's Licence and Section 5 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001
- 03/40 Guernsey Electricity Ltd Quality of Service—Report on the Consultation