



Office of Utility Regulation

**Decisions under
The Electricity (Guernsey) Law, 2001**

**Decision Notice and
Report on the Consultation Paper**

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Decision Notice and Report on the Consultation Paper

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1. Introduction

In August 2001, the Director General of Utility Regulation published a series of consultation papers in relation to the introduction of a new regulatory framework for the electricity sector in Guernsey. This report deals specifically with the issues addressed in the consultation paper OUR 01/09 entitled “Proposed Decisions Under the Electricity (Guernsey) Law, 2001”. That paper set out proposed decisions:

- (a) as to whether a person has a dominant position in a relevant market;
- (b) to include conditions in the licence to be granted to that person in relation to the control of that dominant position, and what those conditions are;
- (c) to regulate the prices, premiums, discounts that may be charged or allowed by a licensee which has a dominant position in a relevant market;
- (d) to include quality of service conditions in any licence; and
- (e) to apply the Code, as set out in Schedule 1 of the Electricity (Guernsey) Law 2001, to a Licensee.

Section 5 of the Electricity Law requires publication of notice of proposed decisions (a) to (d) above, and Section 9 of the same Law requires publication of notice of proposed decision (e) above. Document OUR 01/09 invited interested parties to comment on the Director’s proposed decisions and this report sets out the Director General’s conclusions following detailed consideration of the responses received.

This report is structured along the lines of the consultation document and each section summarises the matter consulted upon, the responses received, the Director General’s consideration of the matter and her conclusions and decisions.

Two organisations/individuals responded to the consultation, as listed below:

- Guernsey Gas Limited
- Deputy Roy Bisson

The Director General wishes to thank those who have responded to this consultation document for their contributions in helping to shape the regulatory regime. With the exception of the responses marked as confidential, written comments are available for inspection at OUR’s office.

There were two related consultation papers issued at the same time as Document OUR 01/09 and the following documents which are published in response to those consultations are now available on the OUR website:

- Document OUR 02/02: Electricity Licensing Framework – Report on the Consultation
- Document OUR 02/03: Electricity Licence Conditions – Report on the Consultation Paper
- Document OUR 02/04: Electricity Licence Conditions

2. Developments Since the Consultation Paper

At the time of the publication of the original consultation paper in August 2001, it was anticipated that the laws necessary to enable the commercialisation of the States Electricity Board and the establishment of the new regulatory regime would be commenced with effect from 1st October 2001. A delay in this process led to extension of the response periods for this and related consultation papers as well as the deferral of the publication of reports on those consultations.

The States of Guernsey has now confirmed the commencement of the relevant laws with effect from 1st February 2002 and has issued States Directions to the Director General at its meeting in September 2001¹. Therefore the legislative framework for the new regulatory regime is now governed by (*inter alia*):

- The Electricity (Guernsey) Law, 2001;
- the Electricity (Guernsey) Law 2001 (Commencement and Amendment) Ordinance 2001; and
- the States Directions to the Director General adopted by the States of Guernsey in September 2001.

In particular the States of Guernsey has directed the Director General to grant the first licences for electricity generation, conveyance and supply to Guernsey Electricity Limited and has directed that the conveyance licence be granted on an exclusive basis for a period of ten years, the supply licence be granted on an exclusive basis for one year and the generation licence be granted with no exclusivity. The States has also requested the Director General to review the introduction of competition into the retail supply market over the coming twelve months.

Along with these measures the States has resolved that the States Electricity Board (“SEB”) will cease to exist on 1st February 2002 and the company Guernsey Electricity Limited (“GE Ltd”) will take over all of the functions of the former SEB on that date. For simplicity, this paper refers to both the current Board and the new Limited company as Guernsey Electricity or “GE”.

3. Decision as to whether a person has a dominant position in a relevant market.

The consultation paper described the Director General’s consideration of the relevant market having regard to the geographic area and the product and services provided and her consideration of the position of the main or sole player in those markets, Guernsey Electricity. The Director General concluded that the island of Guernsey should be considered as the geographic market and the three relevant product markets should be defined as;

- Generation of electricity;
- Conveyance of electricity; and
- Supply of electricity.

This is consistent with the legislation and the States Directions to the Director General.

¹ Billet d’Etat No. XVIII 2001, pages 1263 to 1264

The Director General went on to state her proposal to find that Guernsey Electricity has a dominant position in the supply, conveyance and generation markets in Guernsey.

Comments Received.

This proposal received strong support from respondents.

Director General's Position

Decision 1
The Director General finds that Guernsey Electricity has a dominant position in the electricity conveyance, supply and generation markets in Guernsey

4. Decision to include conditions in a licence in relation to control of dominant positions.

Given Guernsey Electricity's position in the market, the Director General proposed to include a number of specific conditions in its licence in order to control its dominant position. These conditions were set out in section II of the Draft Electricity Licence at appendix 2 to document OUR 01/08; Electricity Licence Conditions – Consultation Paper.

Comments Received

Respondents agreed that the range of conditions was appropriate to be applied to dominant operators and more specific detailed comments were considered in the response to document OUR 01/08 on the text of the licence conditions.

Director General's Position

Decision 2
The Director General shall include specific conditions to regulate the activities of licensees found to have a dominant position in a relevant market. Those conditions are set out in Part A of the pro-forma Electricity Licences set out in document OUR 02/04.

5. Decision to regulate the prices, premiums and discounts of a dominant operator.

The Director General proposed to include conditions relating to the prices, premiums and discounts that dominant operators charge or allow.

Comments Received

Respondents agreed with the Director General's proposals and set out their more detailed comments in their responses to document OUR 01/08 on the text of the licence conditions.

Director General's Position

Decision 3

The Director General shall include in the licences to be granted to Guernsey Electricity, conditions relating to the prices, premiums and discounts that dominant operators charge or allow. Those conditions are set out in the pro-forma Electricity Licence in Document OUR 02/04.

6. Decision to include quality of service conditions in any licence.

The Director General proposed to include specific conditions relating to quality of service in the licence that it is proposed to grant to Guernsey Electricity (conditions 22, 26 & 37 Appendix 2 of Document OUR 01/08).

Comments Received

Respondents agreed with the Director General's proposals and set out their more detailed comments in their responses to document OUR 01/08 on the text of the licence conditions.

Director General's Position

Decision 3

The Director General shall include in the licences to be granted to Guernsey Electricity, conditions relating to quality of service. Those conditions are set out in the pro-forma Electricity Licence in Document OUR 02/04.

7. Decision to Apply the Code in Schedule 1 of the Electricity Law

The Director General proposed to apply the Code in Schedule 1 of the Electricity Law to Guernsey Electricity in its Licence as she considered it reasonable to expect that Guernsey Electricity will require the rights in the Code to continue to establish, maintain and improve its network which is capable of delivering the required level of service to consumers in Guernsey.

Comments Received

Respondents agreed with the Director General's proposals.

Director General's Position

Decision 4

In accordance with Section 9 of the Electricity (Guernsey) Law, 2001, the Director hereby applies the Code in Schedule 1 to Guernsey Electricity Limited from 1st February 2002.

ENDS/