

**QUESTION TO BE ASKED OF THE CHAIRMAN OF THE COMITE DES CONNETABLES ON
TUESDAY 25th NOVEMBER 2003, BY THE DEPUTY OF ST. JOHN**

Question

- (a) Over recent years the utility companies have been digging up the roads to lay services but more recently the Jersey Electricity Company Limited (JEC) has been selling the right to use the fibre optic cables placed under the Island's roads to private companies. Would the Chairman advise members whether the JEC notified the relevant Parishes that it intended to lay the fibre optic cable when laying electrical cable under the road surface or whether notification was only given in respect of the laying of the electrical cable?
- (b) As the JEC is now charging rental on this fibre optic cable to Newtel and Jersey Telecom, would the Chairman inform members –
- (i) whether the relevant Parishes know where the cable is within the road structure of their Parish, whether there is a rental received by the Parishes for this, and, if so, whether this is a flat rental common to all relevant Parishes?
- (ii) whether the JEC, and other utility service providers, are treated as occupiers and therefore pay Parish rates on the respective services that lie under Parish roads and, if not, whether the Comité has any plans to promote a change in this area?

Answer

- (a) The Electricity (Jersey) Law 1937, as amended, gives to the Jersey Electricity Company Limited the power to open and make use of roads in connection with its electricity supply business, as follows –

Article 2 provides - *the Company shall at all reasonable times have the right to break up and make use of the public roads, streets and lanes of the Island, for the development, maintenance and exploitation of an electricity supply for all purposes, whether public or private;*
.....

Article 3 provides –*theymay place and maintain in good condition underneath the said public roads, streets and lanes, such cables, mains, conduits or pipes, junction and other boxes, as they may from time to time deem necessary and expedient for the carrying on of their undertaking. Provided always that no permanent damage be caused to any pipes, sewers or gutters which may already exist in the said public roads.*

Article 4 requires the Company to give notice in writing to the Connétable of the Parish concerned but the Connétable shall not refuse consent to the carrying out of such work, unless he has valid reasons for such refusal. Except in case of emergency and in the case of connections to individual consumers, the above notices shall be delivered at least ten days before the commencement of the work.

The answer, therefore, is that each Parish Connétable will have received from the Company notice of the Company's intention to carry out work in his Parish. The notice will not have specified whether the Company intended to lay fibre optic cable or only electrical cable under the road surface.

- (b) (i) the Parishes are not aware of the exact location of the fibre-optic cable within the road structure of their Parish but the utility companies keep detailed drawings of where the services are laid and these would be available if required. The Parishes do not receive a rent as there is no lease agreement between the Parishes and the Jersey Electricity Company Limited.
- (b) (ii) the utility companies have the use of certain structures, such as cables and pipes, located under land but a legal opinion would be required as to whether or not a utility company is thus the 'occupier'

of the 'land' in accordance with the Parish Rate (Administration) (Jersey) Law 1946, as amended.

However, the 1946 law requires a rental value to be assessed for land in a Parish but there is no "rental market" for the utility companies' property. In the 1994 judgement of Jersey New Waterworks Company Limited v. Parish of Grouville, the Court confirmed that the hereditament to be valued comprised the whole of the company's occupation, including land structures and buildings in a single hereditament, and confirmed that the "profits method" should be adopted.

As a result of this judgment the rental value for the utility companies including the Jersey Electricity Company Limited has been determined using the "profits method". The "profits method" has been in use for more than a century for the calculation of the annual rental value of certain classes of property which are very seldom if ever let. The method could perhaps be more logically described as the receipts and expenditure basis, as the profits themselves are not rated and are not rateable.

The assessment for the Jersey Electricity Company Limited takes into account the Island's electricity supply business in total and therefore, whilst utility companies do not pay 'rates' in respect of services under the roads, this property of the Company is taken into account in arriving at the rental value for the Company. The rental value assessed for the Company as a whole is then apportioned between the Parishes in relation to the assets of the Company situated in each Parish. Thus, whilst not rated as individual items, the cables, pipes and other services of the utility companies are covered as part of the total assessment for the Company which is then apportioned between the Parishes."