

# STATES OF JERSEY



## JT GROUP LIMITED: MEETING CONCERNING GIGABIT PROJECT

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Lodged au Greffe on 24th December 2014  
by Deputy G.P. Southern of St. Helier

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to request the Minister for Treasury and Resources, as shareholder representative of the States, to organise as a matter of urgency a private meeting between the stakeholders in the delivery of the Gigabit Jersey project (JT Group, Gigabit Field Force (GFF) and CH2M) and elected members of the States to discuss –

- (a) the contractual relationship between Gigabit employees, their employers, GFF, and subcontractor CH2M which has resulted in a long-running unresolved dispute;
- (b) whether the contractual relationship between GFF and CH2M is affecting the ability of the latter to deliver broadband connections within budget and within target timescales;
- (c) updated projections for the completion of the Gigabit Jersey project; and
- (d) the impact of the Budget 2015 decision to withdraw, for a 2 year period, the dividend reduction of £3 million per annum proposed in 2011 and require instead the payment to the States as shareholder of an additional £6 million of dividend.

DEPUTY G.P. SOUTHERN OF ST. HELIER

## REPORT

In the past few months, there has been a serious dispute between Gigabit Field Force (GFF), a wholly owned subsidiary of Jersey Telecom employed to deliver the Gigabit project, and their employees over the non-payment of hours worked. This has resulted in 2 demonstrations by the workforce attempting to draw attention to their cause. At the time of writing the dispute appears to be escalating as relationships deteriorate.

The delivery of the Gigabit project seems to be in some disarray as employment relations worsen, funding arrangements are altered and questions arise over delivery budgets and timescales. We are told by the Minister for Treasury and Resources that all these issues will be dealt with at a meeting scheduled for June 2015. In the meantime he refuses to give details of his quarterly meetings with the JT management, and assures us that the issues have been or are being addressed. The evidence is otherwise. His answers to questions (see **Appendix**) are partial and unsatisfactory.

I believe that States members have the right to be much better informed about the situation surrounding this vital aspect of infrastructure delivery. The Minister could of course call for an EGM, but the only States member allowed to attend such a meeting of the JT Board, would be the Minister himself. Scrutiny could investigate the issue and hold the Minister and the JT Board to account, but I have been unsuccessful in persuading the Scrutiny Chairmen to lift this issue up their priority list. Hence I bring forward this proposition.

The report by the Comptroller and Auditor General (R.109/2014) “The States as Shareholder: Jersey Telecom” contains the following extract from the Memorandum of Understanding (MOU) between the Minister for Treasury and Resources and JT (my highlighting) –

“3.3 The States’ relationship with JT as sole shareholder is governed by a Memorandum of Understanding (MoU) entered into in 2006. This sets out the objectives of JT:

1. to be as profitable and efficient as comparable telecommunication businesses that are not owned by the States;
2. to enhance the long term value of the shareholder’s investment in the company and deliver sustainable returns comparable to telecommunications businesses that are not owned by the States;
3. *to be a good employer;* and
4. to be responsive to the wider interests of Jersey’s community within the framework of the licence within which it operates, recognising that the interests of customers will be closely aligned to the prosperity and well-being of the island.”

Jersey Telecom employs their Gigabit workforce through a wholly owned agency Gigabit Field Force (GFF). The day-to day business of delivering connections to the new fibre network is conducted by a separate company, CH2M.

Following the publication R.109/2014 in July of this year, there has been a change of management structure at CH2M who have imposed a new regime to administer the handling of timesheets and job sheets for the GFF employees.

The “Terms of Engagement” which are described as a “Contract between (a named) Contractor and Gigabit Field Force Ltd” contains the following paragraph –

*“Please note that this is a **zero hours engagement**. Work may be offered from time to time depending on the needs of the business but there is no guarantee of work. You are under no obligation to accept the work offered. **This is not an employment contract.**”*

It is not clear whether the new remuneration regime, instituted in August following the arrival of the new management team, was merely a reflection of the original terms agreed between GFF and CH2M or was a change in the terms of engagement to reduce overheads (i.e. wages) on the contract. Either way it has been the source of many individual grievance procedures and at least one collective grievance over the failure to pay for hours worked.

The section of the terms of engagement is reproduced below –

**“6. HOURS AND REMUNERATION**

- 6.1 You will be paid only for hours worked. Your normal hourly rate is set out in the Engagement Schedule (plus an additional 4% as rolled up holiday pay – see “holiday entitlement and procedure” below).
- 6.2 Payment will be made monthly in arrears by bank transfer subject to deduction of social security contributions and other statutory deductions in respect of hours worked in the preceding month.
- 6.3 Working hours are conditional on business requirements and may vary. There may be times when no work is available for you and GFF has no duty to provide you with any work at such times. While there is no guarantee of work, you may be assigned up to 40 hours per week with the possibility of any extra hours to be discussed on a weekly basis.
- 6.4 Normal working hours are between the hours of 07:00 am and 19:00 pm, Monday to Saturday. Details of your expected activity rota for the coming week will be provided to you at the beginning of each week, although rotas may vary depending on the needs of the business.
- 6.5 You may be offered additional or different hours from time to time, for which you will be paid at rates outlined in the Engagement Schedule. (GFF will endeavour to minimise any need for you to work ‘anti-social’ hours – i.e. hours outside those set out in clause 6.4.) If you have questions about the rate which applies at any particular time please speak to GFF.”

In addition to the 4% rolled up contribution to holiday pay, which I understand is standard in these zero-hours contracts, the terms fail to indicate that “hours worked” does not include –

- travel time, to get to the job;
- waiting time, whilst the landlord of the premises is contacted;
- hours worked on connections which are not completed;
- any separate “anti-social” hours payment.

Deductions from wages for travel and waiting times and for incomplete connections have resulted in significant reductions in monthly wages, running into over a thousand pounds in some cases. The temporary solution adopted by management of allocating 98 paid hours while disputes are sorted out, may have brought some employees wage rates down to below the minimum wage.

The Minister in his answers to questions, both written and oral, on 25th November made much of the fact that just over half of the GFF workforce was on “minimum hours” contracts which guaranteed at least 30 hours of work. One has to ask whether a “good employer” cannot organise its workload to extend such minimum hours to the whole of the workforce.

He also made much of the average earnings of employees at around £36,000 but failed to mention that, in order to achieve this figure, many workers have been working long hours of overtime. In seeking to define what constitutes a good employer, the Minister stated that a good employer was one which “met its obligations under the law”. I would suggest that the mere achievement of not breaking the law is far below the bench mark to be expected for a “good employer”.

### **Gigabit delivery**

When the Minister for Treasury and Resources took the decision to request Oxera, the States of Jersey’s external economic consultants, to examine the business case for replacing the island’s existing copper network in 2011, their report compared the Point-to-Point (PtP) fibre optic network with the alternative VDSL option. It concluded that PtP was the better option from a shareholder perspective.

The Oxera report did not cover the implications of the various financing options in order to finance the difference in project costs between PtP (£41.5 million) and VDSL (£21.5 million). The Ministerial Decision (MD-TR-2011-0139) of 9th December 2011 was that finance was to be delivered by an issue of £10 million 2.5% redeemable preference shares, to come from the Currency Fund, alongside a dividend reduction of £3 million p.a. over the years 2013 to 2016. This dividend reduction has now been called into question by the actions taken to balance the Consolidated Fund in the 2015 budget.

As has now been confirmed in the Addendum to the 2015 Budget, this removal of some £6 million for the years 2015 and 2016 from the funding stream, along with the efforts of CH2M/GFF to reduce its wage bills, explored above, must call into question the viability of the original business plan.

This is further compounded by the figures released in response to written question 8540 that there may be a shortfall in the target of 2,000 premises connected by the end

of 2014. If connection rates are not improved, this would mean some 6,000 premises still awaiting connection by the end of 2016, the target date for completion of the project. We are advised that the delivery of the programme is currently subject to a review to be completed by June 2015.

I believe that the public of Jersey, along with their representatives, deserve an updated full explanation of the employment practices, funding and delivery of the Gigabit Jersey project and that the Minister for Treasury and Resources should organise a meeting between the stakeholders and the States as the best way to do so.

### **Financial and manpower implications**

If the Minister were to call for a meeting over the Gigabit issues detailed above, it seems only reasonable that he defray the expenses involved such as publicity costs, hire of room and printing costs. I suggest that this should be limited to £5,000. There are no manpower costs.

## EXTRACTS FROM OFFICIAL REPORT – 25th NOVEMBER 2014

**4.2 Deputy G.P. Southern of the Minister for Treasury and Resources as shareholder representative regarding the contractual relationship between Gigabit Field Force and CH2M:**

Will the Minister, as shareholder representative, examine the contractual relationship between Gigabit Field Force and CH2M to establish whether the latter can deliver broadband connections at a profit without being required to reduce overheads such as the wage bill for its workforce?

**Senator A.J.H. Maclean (The Minister for Treasury and Resources):**

With the greatest of respect to the Deputy, CH2M HILL are a specialist global American company with 26,000 employees and assets in excess of 3 billion dollars. There is no basis on which I can accurately assess whether this company can deliver broadband connections at a profit other than to say they are clearly not short of experience, they are in business to make a profit, and freely entered into a contractual arrangement with J.T. (Jersey Telecom) to install the Gigabit Jersey infrastructure. However, what I am concerned about is that they live up to all the obligations that they freely entered into in Jersey and one of those obligations is the payment of wages for works completed. This is not a matter of making reductions elsewhere to ensure that a profit is secured, but a matter of CH2M paying legitimate obligations as they fall due, one of which is workers' pay.

**4.2.1 Deputy G.P. Southern:**

Under the Memorandum of Understanding between the Minister for Treasury and Resources and Jersey Telecom, Jersey Telecom has the objective of being a good employer in its business operations. Will the Minister state what his criteria are for being a good employer and whether he considers that Jersey Telecom, through the Gigabit Field Force, has succeeded in its objectives.

**Senator A.J.H. Maclean:**

I think, in summary, a good employer is one who meets all his legal obligations; that is an absolute minimum. With regard to the Gigabit project and whether indeed CH2M HILL have managed to fulfil all their obligations, there have clearly been some teething problems and I am pleased to say that having called the Chief Executive and staff from J.T. into my office, we now appear to be having some progress, and I am delighted that all parties are working together and seeking to resolve the misunderstandings and difficulties that have been the case in recent times.

**4.2.3 Deputy M. Tadier:**

Can the Minister confirm whether he considers that when employers work between the hours of 7.00 a.m. and 7.00 p.m. at their place of work - wherever that may be - non-payment for travel time, waiting time, *et cetera*, at the owner's property for hours worked when a connection is not completed, does this constitute best employment practice?

**Senator A.J.H. Maclean:**

I think the Deputy is referring in particular to those employees of the 104 - about half, 49 I believe - who are on zero-hour contracts. On those contractual arrangements the terms are simply for work undertaken. What one needs to focus on is what employees have been paid, on average around £36,000. Up to July of last year, the average employee has received the highest it has had, £48,000, and more than double the minimum wage has been paid to employees for the work undertaken.

**4.2.4 Deputy M. Tadier:**

Listening to the Minister one would think that everything is rosy and there are no problems with Gigabit and their sub-contractors and the employees, whereas we know the reality is very much different. Can the Minister answer specifically that whether on a zero-hour contract or not, when driving between one job, when waiting at a premises for an owner to turn up, that all constitutes work and that work should be paid for, especially when the fall-back guarantor is the States of Jersey as the shareholder of Jersey Telecom?

**Senator A.J.H. Maclean:**

I would first of all say, and make it absolutely clear, that all is not rosy in the garden, that is patently obvious. There have been problems on all sides and I have no doubt whatsoever about that. With regard to the arrangements of payment for driving time or waiting at a premises, that should be contained within the contractual arrangements which are undertaken and the employees are made aware of it before they start the project.

**The Bailiff:**

Do you wish a final question, Deputy Southern?

**4.2.5 Deputy G.P. Southern:**

Does the Minister, as shareholder representative, have the ability to call an extraordinary general meeting of Jersey Telecom and, if so, will he do so in order to discuss the treatment of its G.F.F. (Gigabit Field Force) employees and to examine the ability of CH2M to deliver its targets for completion of Gigabit Jersey in budget and on time?

**Senator A.J.H. Maclean:**

In extreme circumstances, yes, I would have that ability. But frankly my first port of call has been to first of all call into my office the Chief Executive of J.T. and its senior team. I have done that. My intention very shortly is to speak to the board and have a general update, which I will do on a regular basis anyway. I expect J.T. to act in an appropriate manner with regard to this matter, and I believe they are now doing and making every effort to put these issues right.

**4.2.6 Deputy G.P. Southern:**

Final supplementary. Can the Minister give a brief résumé of what his conversation was about yesterday and what solutions were offered by the representative of J.T.?

**Senator A.J.H. Maclean:**

I think the Deputy knows what the conversation was about. It was solely about this particular issue. I was interested to know how indeed the matter had arisen in the first place and how it was going to be resolved satisfactorily, and indeed the true extent of any problem that existed. I was given a clear outline from J.T. about the problems that



had existed, the reasons for them. It would take me far too long if I were to outline the full extent of my 2-hour conversation here, but I am satisfied that there is progress being made by all sides and I am satisfied with what I have been told but I have been monitoring it and expect to hear an update next week.

**4.8 Deputy S.Y. Mézec of the Minister for Treasury and Resources as shareholder representative regarding an apparent dispute with workers on the Gigabit project:**

What progress has been made by Jersey Telecom to resolve the apparent dispute with workers on the Gigabit project and what role has the Minister played, as shareholder representative, in trying to ensure that all workers are paid for the work they have done?

**Senator A.J.H. Maclean (The Minister for Treasury and Resources):**

I think I have largely answered this question. I have invited the chief executive and senior officers from J.T. to my office for an up-to-date explanation of the situation. J.T. and CH2M HILL have been holding helpful meetings or, as they have described it, surgeries with workers over the last 2 weeks where all concerns and requirements have been worked through. They have assured me - that is J.T. - that good progress is now being made in what has clearly been a very unsatisfactory situation for all concerned. I have asked for a further update next week.

**4.8.1 Deputy S.Y. Mézec:**

If this update turns out to be unsatisfactory, and if it looks like the employers are not making progress to resolving this dispute, what powers does the Minister have to get involved to help sort it out and would he be willing to use them if it came to it?

**Senator A.J.H. Maclean:**

Ultimately the effective running of a business and indeed ensuring that that business operates under its obligations, both legal and contractual, is a matter for that business and for its board of directors. Clearly in this circumstance, I have the responsibility, as Minister for Treasury and Resources, as the shareholder, and as such I will apply whatever pressure I can to encourage J.T. where appropriate to undertake obligations that they have to ensure that employees are properly looked after. I am reassured from the meeting that I had recently that they are doing all in their power to do that and, indeed, most workers appear to be now reasonably satisfied with the progress being made and the discussions that are being undertaken, so I hope we will not need to take any further action.

**4.8.2 Deputy G.P. Southern:**

When push comes to shove surely the net impact of what has been going on at CH2M is that they have failed to reach their targets by some 2,000 connections. They are 6 per cent behind on their target for the end of this year. What actions will the Minister take to ensure that this major arm of I.T. (information technology) developments on the Island is completed on time and to budget by CH2M?

**Senator A.J.H. Maclean:**

I think there is a great deal of misinformation. In fact there was a very good letter in the *Jersey Evening Post* last night which covered part of this issue. First of all, I should point out with regard to the Gigabit Jersey project, 98 per cent of houses have now been passed. More than 1,000 kilometres of fibre have been laid, 12,000

properties have been connected already and no country in Europe has more fibre connected - 34 per cent - than we have in Jersey. We are leading the world and, as an Island that is aspiring to be a digital sector of excellence, that is something, in my opinion, which should be applauded. The issues here are issues relating to largely 2 things and that is the job specs and the timesheets of workers. Unfortunately when workers go out to connect a property they have to fill in a job sheet and a timesheet. Those have not been properly completed in some circumstances and that has caused J.T. to have to return repeatedly to premises 7 or 8 times in some circumstances where a job sheet has said that the connection, for example, has been through the cellar whereas it has been through the attic. So they have wasted time and therefore cost and costs have been run up but those are contained within the contractual arrangements with the supplier, who is taking the hit on those additional costs.

#### **4.8.3 Deputy G.P. Southern:**

The question was about targets. If I may, with his own answer earlier in the day, question 12 in written answers, it indicates that there is a mark for premises passed at 100 per cent. There is also a category "Premises actually connected" and that target is 2,000 under what the target is. The actual achievement is 2,000 connections not made on the target. What measures is the Minister going to take to make sure that the connections ... that houses and businesses are connected, not just passed?

#### **Senator A.J.H. Maclean:**

This is not for the Minister to make any adjustment. Quite frankly there is a board of directors. There is an executive of the J.T. They have a specialist contractor, as I pointed out, who is a multi-billion dollar business that is a specialist in this particular field. More than 12,000 properties have been connected. Yes, there have been problems with the project, which is clear. Yes, at times it has fallen behind schedule and the company is working in order to address that. But we should applaud where they have got to. I think the project is a fantastic project for the Island. I am very hopeful, certainly from what I have been told by J.T., that they will finish the project on time and on budget, and they are going to update me later next year with further progress.

#### **4.8.4 Deputy S.Y. Mézec:**

I was not particularly satisfied with his answer to my last question where I asked what powers does he have to specifically get involved and he did not give any specifics, so I would like some specifics. He has spoken about the problems there about workers not filling in timesheets properly. I have sat with some of these workers who have shown me printed out emails going back months and months of their timesheets. They have the date they were sent. I cannot see any problem there whatsoever and it is a problem that they have not had in the past. It seems to have just started all of a sudden and started when it looks like the company is not meeting its target. So does he believe there is a connection between those 2 things?

#### **Senator A.J.H. Maclean:**

I think where the connection is, is that the company providing the services has undergone a change of management at the top and they have been reviewing the way in which the project has been running. The project, quite frankly, has not been managed as well as it could have been by CH2M HILL and in relation to that they have quite simply, in relation to the contractual arrangements they have, made certain that they have met all those terms that are in the contracts and the timesheets are properly filled in and the job specs are properly filled in because it is quite appropriate under contractual arrangements that should be done. They have been enforcing the

terms of the contract. What J.T. have done, getting together with all parties, have helped to ensure that employees or workers, more to the point, are properly appraised of what their requirements are and obligations are in this regard. So all parties are clear and I think, as I have already stated, progress is being made. With regard to the other part of the question the Deputy asked and powers; the powers quite simply are to ensure that the company under the Memorandum of Understanding, which is published and available as Deputy Southern has already referred to, that companies operate in a way that is fair to staff under their obligations. I can insist that the board undertake that but it ultimately is the decision of the board how they carry out those duties.