

# STATES OF JERSEY



## **ELECTRICITY TARIFFS: REGULATIONS UNDER ARTICLE 22 OF THE ELECTRICITY (JERSEY) LAW 1937 (P.41/2009) – COMMENTS**

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**Presented to the States on 27th April 2009  
by the Minister for Economic Development**

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**STATES GREFFE**

## COMMENTS

While I acknowledge the request presented by Proposition 41/2009, namely to exercise powers delegated under Article 35 of the Electricity (Jersey) Law 1937, it is important to comprehend that prior to bringing forward any Regulations under Article 22 in respect of determining tariffs, I am mandated to undertake a thorough examination of all relevant matters prescribed under Article 22(2).

This Article details 7 key areas for analysis and consideration to enable the States to reach an informed choice and be certain of acting in the public interest. The States must therefore take account of –

- the present needs of the Company and the future expansion of services provided by the Company;
- the ability of the Company so long as its undertaking is managed efficiently to pay –
  - interest on and reimbursement of any debentures, loans or other borrowing of the company,
  - a dividend on the preference shares issued by it at the rate fixed under the terms of issue of such shares, and
  - a reasonable dividend on the ordinary shares issued by it;
- any capital expenditure which the Company may reasonably be expected to incur during the next 5 years and the desirability of the Company's charging such expenditure, or any part thereof, to revenue;
- the ability of the Company to pay all proper expenses of and connected with the working, management and maintenance of the Company;
- the provision of any contributions, whether set apart out of revenue or otherwise, which the Company may lawfully carry to a reserve, contingency or amortization fund;
- the ability of the Company to make good depreciation, whether or not provision therefore is made by a reserve or contingency fund; and
- the ability of the Company to meet all other costs, charges and expenses, if any, properly chargeable to revenue.

Evidently this is no light undertaking. To meet the requirements of Article 22(2) it is implicit that I must commission an independent review of the Jersey Electricity Company using the paragraphs above to form the terms of reference. The Economic Development Department will undertake the process of securing an independent agency to complete the review as soon as reasonably practicable in accordance with the Financial Directions.

It is important for Members to appreciate that if the States fail to have sufficient and reliable information in respect of the matters prescribed under Article 22(2), which material is necessary for making an informed decision on a proposition under Article 22(1), it is highly probable the decision would be struck down by the courts on a challenge by way of judicial review.