

STATES OF JERSEY



LA COLLETTE FUEL FARM, ST. HELIER: LEASE TO SHELL U.K. LIMITED AND ESSO PETROLEUM COMPANY LIMITED (P.60/2003) – COMMENTS

Presented to the States on 8th July 2003
by the Economic Development Committee

STATES GREFFE

COMMENTS

The previous Industries Committee had considered the proposed Lease when it was initially lodged with the States in 2002. That Committee had three main concerns on the proposed Lease which through discussion with the then President of the Harbours and Airport Committee led to the Proposition being withdrawn in June 2002.

Whilst various attempts were made, involving Property Services and the Law Officers Department, to overcome the concerns expressed by modifying the proposed Lease, no agreement was reached and the issue was inherited from the Industries Committee by the Economic Development Committee.

In order to try to progress the issue, the Economic Development Committee received a presentation from the Fuel Consortium on the 26th March 2003 which gave a comprehensive coverage of –

- The purpose and structure of the Consortium
- The operation of the Consortium
- How costs are allocated within the Consortium
- How new participants are admitted to the Consortium
- Future plans for the Consortium.

There were three concerns that had been expressed by the Industries Committee which resulted in the report and proposition being withdrawn. Each of these is given below with comments taken from the Fuel Consortium's presentation relevant to each of them.

Ensure that the operators of the Fuel Farm supply all their services on a non-discriminatory basis including supply to both downstream petrol retailers and wholesale distributors as well as upstream providers of bulk liquid fuels.

At present there are two members of the Consortium, Esso and Shell. In addition, TOTALFINAELF make use of the facility through an agreement with Shell. Any other supplier of fuel, or distributor of fuel could make a similar agreement with either Shell or Esso. In addition, the Fuel Farm is managed by the Consortium through a Joint Operating Agreement, which makes provision for the right of a third party to become a participant in the Consortium. TOTALFINAELF intend to join the consortium when the new lease is signed.

The Consortium itself does not own or sell fuel. It appoints a Consortium Operator to operate the Fuel Farm. The Consortium does not make a profit. The Consortium is operated on a full cost recovery basis with these costs being allocated to the individual participants.

Each user of the Fuel farm is free to sell fuel to whoever it wishes and sets its selling price independently. No joint marketing activity is contemplated by or included in the Joint Operating Agreement.

Ensure that the States have access to sufficient information to fully understand the costs of operating the Fuel Farm and the pricing mechanism operated by the Fuel Farm.

As stated above, the Fuel Farm is operated on a non-profit basis and the price of fuel sold on the Island is set by the individual users of the Fuel Farm.

At the Economic Development Committee Meeting on the 26th March, the Consortium stated that the financial information on the operation of the Consortium would be made available to the Economic Development Committee if required.

Ensure that the operators of the Fuel Farm are subject to all relevant elements of the proposed Competition Law.

The draft Lease does make reference to the Competition Law. Even if this was not so, the Consortium will be subject to all relevant elements of the Competition Law when it comes into force, as indeed all other relevant businesses operating in Jersey will be.

The discussion which followed the presentation by the Consortium on 26th March covered the above concerns

and the information provided by the Consortium. Whilst it was accepted that there may still be issues of concern on the price of fuel in Jersey, the general view was that the operation of the Consortium was not a key factor in this.

Conclusions

The Economic Development Committee concluded that the concerns held by the Industries Committee were adequately covered by the information provided by the Fuel Consortium, the signing of the lease is unlikely to frustrate potential competition either now or in the future and that there are no firm grounds on which the Economic Development Committee should oppose the proposed new Lease.