STATES OF JERSEY

JERSEY NEW WATERWORKS COMPANY LIMITED: REPORT OF JERSEY COMPETITION REGULATORY AUTHORITY ON OUTSOURCING

Lodged au Greffe on 17th November 2009
by Deputy G.P. Southern of St. Helier

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion −

to request the Minister for Economic Development, in accordance with Article 6 of the Competition Regulatory Authority (Jersey) Law 2001, to request the Jersey Competition Regulatory Authority to prepare for him, for immediate presentation to the States, a report providing information and advice in relation to the activity of the Jersey New Waterworks Company Limited (‘the utility’), being a monopoly, on the reasons for and consequences of outsourcing all main laying and service connection civil engineering works activity.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

Article 6 of the Competition Regulatory Authority (Jersey) Law 2001 states the following –

"6 Functions

(1) The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.

(2) The Authority may recognize or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods or services to which the Authority's functions relate.

(3) The functions of those bodies shall include one or more of the following –

- (a) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
- (b) the representation of the views of any one or more of those persons.

(4) The Authority may, on request by the Minister, provide the Minister with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).

(5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions."

The employer called workers into a meeting on the evening of Wednesday 4th November at 4 p.m. which coincided with a letter addressed to the regional officer of Unite, the employees' representatives, being hand-delivered to his office. They were advised that all main laying and service connection civil engineering works would be privatized, resulting in 20 job losses. The employer said that it was reviewing its operations with a view to 'maintaining acceptable returns for its shareholders'.

Fact 1:
Jersey Water profits were up last year by 14% to over £4 million.

Fact 2:
A final net dividend for the year 2008 of 194 pence per share (up 15% on the year) on the ordinary and 'A' ordinary shares was declared.

Fact 3:
The States of Jersey hold 100% of the issued 'A' ordinary shares, 50% of the issued ordinary shares and 100% of the 7.5% – 10% cumulative fifth preference shares in the Jersey New Waterworks Company Limited as at 31st December 2008.

At a meeting with the managing director and the company secretary which took place on Friday 6th November, the company was not able to justify the redundancies to the satisfaction of the employees and their representatives, except to reiterate their position in relation to shareholder dividends. Surely in today's economic climate, the welfare of workers and their families should be balanced against shareholder profits? Especially when you consider that according to company accounts, the business is buoyant.

When employee representatives expressed the above concerns to the employer, the response was: 'Do you expect Jersey Water to carry these workers?'. This is a shameful and disgraceful thing to say. Many of the staff have been employed for 20 years or more, providing a loyal service both to the public and the company. To be so dismissive of their own workforce reveals a total lack of compassion on the part of the management, which in turn reflects badly on the States, as majority shareholder.

These attitudes are in sharp contrast to the views of the retiring chairman expressed in his statement of 3rd April in the annual report.

> *"Jersey Water is a tremendous asset to the island…. It has an infrastructure in extremely good condition, with detailed plans for the continued maintenance and enhancement of its processing and distribution capability for the future."*

> *"it is..... important that… pressure for short term gains are not pursued at the expense of the Company's ability to provide for the needs of all of its stakeholders"*

and finally, of the staff he had this to say –

> *"I continue to be impressed with the very positive attitude of our staff to their work throughout the company and on behalf of my colleagues on the Board, as well as stakeholders, I take this opportunity to thank them all for their continued support and commitment to your Company."*

Notwithstanding the position of the States in condoning this poor behaviour on the part of the new Chairman and Board, there are other issues which need urgent attention, many of which fall within the remit of the Minister for Economic Development, through the JCRA.

The following issues come to mind immediately when considering the position of the States in relation to this monopoly utility –

1. Is the States conflicted? Many would consider that it is acting against its own best interests and against its policies in allowing these redundancies, which will further depress the economy at a time when the Economic Stimulus policy attempts to maintain and stimulate the economy through the recession.

2. In consequence, why has the company not bid for Economic Stimulus funding to bring forward mains infrastructure projects in the coming year?

3. Is a profit of over £4 million on a turnover of only £14.3 million an appropriate return from its monopoly position or could it be excessive?

4. Is the decision to outsource or privatize this mains engineering activity, with the loss of 20 jobs, solely to further increase profits and dividends in the best interests of the Island and the economy overall?

5. What skill levels exist among the JAYEN employees by comparison with the current highly skilled and experienced workforce? Is there a risk to standards of service provision?

6. What proportion of the JAYEN workforce is locally qualified? Is there a risk of increasing ratios of non-locally qualified in this sector? Is there a reduction in the terms and conditions of employees by outsourcing?

7. Is the States fundamentally conflicted as majority and controlling shareholder in balancing its interest in pursuing higher dividend against its interest in reducing prices to residents?

All of these questions, and probably more, require answers. The States, if it is to act properly in the best interests of the Island and its residents, must have those answers. Only then can it decide whether the actions proposed by the Board of JNWW should be sanctioned. This proposition enables the Assembly to obtain the information it needs through the Minister for Economic Development through timely action of the JCRA.

Financial and manpower statement

The power of the Minister to request such a report is contained in Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2001 and therefore any such request should be catered for in the Economic Development budget. If the report is to be timely then this will be funded from the 2009 budget of £594,600. It is interesting to note that in the Economic Development Business Plan 2010, funding to the JCRA has been reduced because: *"The effectiveness of the JCRA has developed to the stage that they now require less resource to manage competition law policy."* Equally, the Authority is resourced to meet any manpower requirements under Articles 6(2) and (4) above.