



Scrutiny Office

Public Accounts Committee

Fuel Farm

MONDAY, 12th SEPTEMBER 2016

Panel:

Deputy A.D. Lewis of St. Helier (Chairman)

Deputy J.A. Martin of St. Helier

Connétable C.H. Taylor of St. John

Mr. M. Robinson

Mr. G. Drinkwater

Witness:

Chief Executive, States of Jersey

Also present:

Deputy Comptroller and Auditor General

[12:59]

Deputy A.D. Lewis of St. Helier (Chairman):

Welcome, everybody. Thank you for coming along today, Mr. Richardson. Just for the record, we would like to go round the table and introduce ourselves and also could anybody in the gallery and members of the panel as well make sure their phones are switched off or switched to silent. Right, we can start with Mr. Drinkwater.

Deputy A.D. Lewis:

Thank you. As you know, the P.A.C. were asked to look into things leading up to the re-signing of the lease on the fuel farm. What we are interested to hear in particular is that of a public interest in determining value for money and whether the asset has been used in the way that the public would expect. We have had a lot of information from you already so thank you for that, and we have had the opportunity to discuss the matter with, for example, the Emergency Planning Officer, the head of Property Holdings. We certainly learnt a lot about this and other matters concerning the area of property and asset management. That is something that we are particularly interested in today, is to find out just how well we are managing our assets. I just realised I have not got a microphone in front of me. Thank you very much. I am just going to kick off with the first question, John, and I hope there is nothing too much here that you need to go back away and find out more about. But there may be a couple of spots where you may well want to say: "Look, I really need to clarify that point or talk to others", the likes of Property Holdings, for example. But first off, what we are interested in finding out is what was the strategy for maintaining continuity of fuel supply for Jersey at that time?

Chief Executive, States of Jersey:

When you say "at that time", Chairman, is that ...

Deputy A.D. Lewis:

So at that time and going forward there clearly is a strategy for the supply and continuity of supply of fuel for Jersey. Could you perhaps describe it?

Chief Executive, States of Jersey:

Yes, I think you have probably got to turn the clock back quite a long way.

Deputy A.D. Lewis:

We are interested in looking back particularly.

Chief Executive, States of Jersey:

Certainly in my career in the States I have been involved with emergency planning for a number of years. I cannot remember how many, but many years, and it has certainly been a matter there in terms of the quantity of fuel held by the Island effectively. The essential stockholding, obviously winter and summer loads vary, but the Emergency Planning Law provides for regulations, if required, in an emergency, and in normal times the Emergencies Council has been updated in terms of essential stockholdings. So that is a pure emergency planning perspective. I think that is probably the starting point for what has been held in Jersey and ...

Deputy A.D. Lewis:

How many days supply do we have?

Chief Executive, States of Jersey:

I can get that for you but there are stockholdings which are provisions for minimum stockholdings for the fuel farm.

Deputy A.D. Lewis:

I will just say what we found out. Our understanding is there is about 10 days' supply without any top up, but the recommendation from previous strategies has been 28 days. But currently I believe it is 10 days.

Chief Executive, States of Jersey:

Well, emergency planning of a fire chief ...

Deputy A.D. Lewis:

That is from the fire chief.

Chief Executive, States of Jersey:

Well, then that is information that we would have been given at the Emergencies Council at the next Planning Board.

Deputy A.D. Lewis:

The strategy, could you outline it a bit more? What is the strategy to maintain the continuity of supply? What contingency is there if it goes wrong?

Chief Executive, States of Jersey:

Then I think again, sorry to go back a long way, but I think you have to go right back to the 1970s when the land was first created. I think it was the Policy and Resources Committee of the day made a clear decision that the land would be leased to a competent operator, which in those days I think was Shell who took on the majority holding and operation of it, and the States were not going to get involved in the assets in terms of construction, operation and maintenance of it. So that is where it started. Ongoing I think it is fair to say there have been a number of committees with an involvement in the operation. My understanding, but it certainly goes back a long way, is that the Harbours and Airport Committee had quite significant involvement in those days when they were committees because it was obviously blended in with the port side of it and the importation, and the fuel farm was completely adjacent to it. The Ports had an interest in the entire land on the La Collette 1 reclamation site, as it is known. As we moved from committee to ministerial government the Harbours and Airport Committee went into the Economic Development

Committee and the Minister for Economic Development then had interest in the fuel farm. But I think in the early days my understanding was that most of it was then delegated from the Minister to the Assistant Minister who had responsibility still for the Ports. So there seems to have been a continuum of Ports involvement in the early days and as time has evolved then obviously the Minister for Economic Development has become more involved in the fuel farm at certain times and Property Holdings have maintained the lease on the land.

Deputy A.D. Lewis:

So you touched on there quite a few different departments that are involved, and this is one of the things that we are discovering in our investigation. There are a lot of different departments involved for all perhaps very good reasons. But who was responsible for the overall strategy that briefly described earlier on? So a lot of people involved and there is a risk here that maybe too many fingers in the pie, but who is responsible for the overall strategy?

Chief Executive, States of Jersey:

I do not think there is an overall strategy, in exactly the same way as I would say I do not think this is just about the fuel farm. I would have to bounce the question back and say: "So what is the overall strategy for gas? What is the overall strategy for electricity? What is the overall strategy for water? Who is responsible?" Is it a States department? Is it a Minister?

Deputy A.D. Lewis:

That is our question to you really because it is very much a strategic issue.

Chief Executive, States of Jersey:

I am having to bounce it back because I do not ...

Deputy A.D. Lewis:

Because without fuel, without electricity ...

Chief Executive, States of Jersey:

The answer is I do not think there is.

Deputy A.D. Lewis:

Do you think perhaps there should be?

Chief Executive, States of Jersey:

Certainly from looking forward then I think we have greater clarity now from having a new Department for Infrastructure, which looks after property and infrastructure and certainly something which I have been pressing. Certainly going forward is that some decisions have to be

taken in the next couple of years on the long-term location of the fuel farm, so there is a policy decision required there.

Deputy A.D. Lewis:

We will come on to that later actually because we wanted to ask you about that. But what you are saying at the moment is that there was not anybody with an overall responsibility for supply of energy, power. There is no central responsibility for this vital element called power and fuel, which basically runs the Island; without it we stop.

Chief Executive, States of Jersey:

I think that same argument applies for electricity and gas. Ministers will always have an interest for various parts and if an issue does come up then a States Member will obviously become interested in it.

Deputy A.D. Lewis:

But you are now saying that a sensible thing may be to move it to Infrastructure, hence the name, it makes kind of sense, and have them overall responsibility for this type of area. Is that a policy decision that you have made? Has it been discussed?

Chief Executive, States of Jersey:

No, it has not been made, but I see those being a very clear distinction between the role of the regulator, which comes under C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) now, which is there to regulate predominantly on prices, and there is a role then for, if there is going to be a department or a Minister with responsibility for infrastructure, then it would seem reasonable that someone should have some oversight going forward.

Deputy A.D. Lewis:

But the decision has not been made, that is just something that you want to discuss?

Chief Executive, States of Jersey:

Certainly my interest in it is to make sure that well ahead of time the right decisions are taken about the long-term strategic location and operation of a new fuel farm.

Deputy A.D. Lewis:

So at the moment there is not a long-term plan for that element of your instruction?

Chief Executive, States of Jersey:

No, there is a long-term plan, which is a current lease, which has just been signed. But the longer term, which I think is the important thing to focus on, is where the fuel farm is now it is because of

the hazard zones that circle it as a result of the Buncefield fire in 2007. That places quite a lot of restrictions on the land use in the La Collette area. If the fuel farm assets were located to the far southeast of the La Collette 2 site, which is the new reclamation site, where the land has not been created yet, then effectively you move all of the zones well out. Some of the zones are out to sea. So the amount of land then becomes restricted significantly less and you can get much better land use out of the existing land that is on the site.

Deputy A.D. Lewis:

Going back 10 years then, was this kind of conversation ever had then?

Chief Executive, States of Jersey:

There was no land to do it, so you could not do it.

Deputy A.D. Lewis:

There may be other locations I believe, Ronez was mentioned at one point.

Chief Executive, States of Jersey:

I do not now, I could not comment on Ronez.

Deputy A.D. Lewis:

We will come on to a bit more detail about location of the site later on. I would like to come on to a question now that Chris Taylor is going to ask.

The Connétable of St. John:

Which departments were involved in the discussions regarding the safety and security of the fuel supply to Jersey from 2007 until the present lease?

Chief Executive, States of Jersey:

Can I go back one year? Because 2006, I think, was the date at which the new lease was signed. I think it was signed in 2007 but it was backdated to 2006, was it not? At that stage, my understanding is that it was ... Property Holdings were involved in the land lease, and Economic Development were involved, through the Minister for Economic Development, in the fuel farm. But I have not got and I have not seen information on what involvement that was. I know that obviously Property Holdings had to take the lease through because it is an annual lease but those were the 2 departments. Now moving forward, immediately post ... sorry, before I move forward. Harbours was still involved because they were still actively involved as the Harbours Authority. But going forward, immediately post-Buncefield, there was understandably a lot of concern around the operation of fuel farms around the country. The previous chief executive asked me, as the chief officer of Environment and Public Services, in those days, to chair what was called the

Hazard Review Group, to see what were the implications for Jersey on the new zones that were being put in place by H.S.E. (Health and Safety Executive) in the U.K. (United Kingdom) and what did that mean for the sustainable operation for the fuel farm. So I chaired it with all the relevant authorities, fire, police, Ports, it was quite a big group, and we took that forward and obviously had the fuel companies as part of that review group; both the petroleum importers and the gas company. So we were looking at the entire site because we have a slightly unique position in Jersey where you have got both sites together, so you have to look at the hazards around both sites, and the zoning is slightly different for them.

The Connétable of St. John:

The Hazard Review Group was formed in 2007; was that its first meeting or was it a committee that did exist beforehand?

Chief Executive, States of Jersey:

No, the chief executive asked me to form it and I cannot recall exactly when it was formed. It was immediately or almost immediately post-Buncefield when all the authorities in the U.K. were clearly becoming very concerned about fuel farms and the hazards and zones around them.

The Connétable of St. John:

How did that sit with the Emergency Planning Committee at the time?

Chief Executive, States of Jersey:

The Emergency Planning Officer sat on the Hazards Review Group and I think we reported to the Emergencies Planning Board or Emergencies Council on progress.

The Connétable of St. John:

The Emergency Planning Board, when was that convened?

Chief Executive, States of Jersey:

There has always been, as far as I can recall, an Emergencies Planning Board, but it was reconstituted, again I have not got the date, but it was ... we restructured it I would think in about 2009 or 2010 to get some separation between the Emergencies Planning Committee, which is the political side, and the Executive who are there to support it. We could go back and get some dates, but that is just my recollection.

Deputy A.D. Lewis:

You refer to the actions report there and we have read it. I have got it here, it is 2007. So it is getting on for 10 years ago. You talked about a plan for the future strategy. It is said in here though in 2007: "It is recommended that a more detailed site location specific analysis of the

individual risk should be undertaken so the decision makers can balance these risks against socioeconomic and other planning benefits [which you alluded to earlier] associated with any future development.” That is in 2007. We are now nearly 2017. Has this review not happened?

Chief Executive, States of Jersey:

There are a number of years that have happened so in the work that I undertook, as a result of that there was agreement with the current operators for a significant upgrade of the fuel facility. The hazards zones were then clarified and they have been through a couple of iterations since then, not by ourselves but by the U.K. H.S.E., to clarify. But of course the issue then in terms of future land and location is it did not exist. It was obvious from the way in which the reclamation sites had been built that when La Collette 1 was built in the 1970s the fuel farm was at the most extreme end of it, which was absolutely right. When La Collette 2 was built, La Collette 2 encircled La Collette 1, so that site has been ongoing since 2005, I think it opened.

[13:15]

I think that is right. But it has taken a long while to fill so if you are going to relocate a fuel farm from a strategic land use perspective it needs, again, to be at the most extreme end, and that land does not exist. It still does not to this day.

Deputy A.D. Lewis:

But no other land anywhere else now was ever considered, it was always going to be there, was it?

Chief Executive, States of Jersey:

We did consider it but it was very obvious very quickly that in terms of bringing fuel to the Island there is only one port and you clearly need to have the port as close as possible to the storage facility. So the simple answer is there were very few, if any, alternatives other than recognising that La Collette 2 was the place to put it.

The Connétable of St. John:

In 2009 you were head of T.T.S¹. (Transport and Technical Services), now the Infrastructure Department, and you chaired the Hazard Review Group, so from 2012 there was the renewal of lease. Was it discussed at those meetings and what was the cause of delay in raising the new lease?

¹ Later corrected by Chief Executive, he moved to Chief Ministers Department as Deputy Chief Executive in 2009

Chief Executive, States of Jersey:

The renewal of the lease was certainly never discussed at any of the meetings that I was party to in the early days. What was discussed with the operators was an agreed plan for implementing the safety recommendations that came out as a result of Buncefield, and the operators were very clear that they would undertake the work but because of the nature of the products they store and it required ... each tank was taken out of service they could only do certain tanks at certain times of the year. So clearly central heating oil tanks they cannot take out during the winter. So they can only take them out in the summer. They said very clearly that they would undertake all work required but it had to be in a phased way because each tank had to be decommissioned, repaired and additional facilities put in, and then they would work their way through. What appears to have happened is that they got to a stage where they had finished the refurbishment of the tanks but they then had to continue with the installation of the fixed firefighting system, which again is a fairly significant element, a capital investment, and this was post my time on the Hazard Review Group. My understanding, reading some of the background, was that they got to a stage to say: "Right, we are ready to do the next piece of investment", which is a fixed installation, but because of the cost of it and we have to then obviously depreciate it over a period of time we need the extension on the lease in order to have security of our lease to put the investment in and depreciate it over that time.

The Connétable of St. John:

What sort of date was that?

Chief Executive, States of Jersey:

I think from looking back at some of the records those discussions started to happen in about 2011 or 2012, from what I have seen.

The Connétable of St. John:

That is what I referred to, is 2012, yes. So the lease was an issue as early as 2012 because it was going to stifle investment because of the short period for the write-off of any investment.

Chief Executive, States of Jersey:

The operator was certainly saying at that stage they were looking for the extension of their lease, yes.

The Connétable of St. John:

So the officers involved on the Hazard Review Group were aware at that time that the lease renewal was a sticking point?

Chief Executive, States of Jersey:

Lease renewal was, yes.

The Connétable of St. John:

Yes. Was this brought to the attention of Ministers?

Chief Executive, States of Jersey:

I think it was, as it went on. I certainly was not aware that there was a problem until later on, which we will perhaps come to in a minute. But I am certainly aware that the Minister for Home Affairs, I can recall him raising it - I cannot remember when - that time was pressing on and this installation needed to be completed. I could not give you a date though when it was raised. So clearly a Minister was aware of it.

Deputy A.D. Lewis:

There were opportunities of course, and we will come on to them where negotiations could have taken place to change the arrangement. I believe that would have had to have occurred probably 3 or 4 years before the end of the lease. Would that be fair to say?

Chief Executive, States of Jersey:

I think if we are now focusing on this specific clause, if you are referring to that, Chairman, then yes, if the clause was going to be invoked, which was by July 2014, I think was the cut-off date for that clause, then with the amount of work that would have needed to have been done, that would have had to have been planned probably at least, I would have thought, 2 years beforehand.

The Connétable of St. John:

So in 2012, when it was brought to the attention the lease was going to be an issue, it was obviously known among officers that it was an issue, which was 2 years before July 2014, when invoking that clause would be necessary. Those were your ...

Chief Executive, States of Jersey:

No, I am absolutely not saying that. I am saying there are 2 distinct issues here. One issue was the recognition ... there was a request from the operator of an extension in order to depreciate the investment that was required and the second issue, and I am absolutely not making any connection between the 2 here, was a clause in the lease that would have allowed for the States, if they had so wished, to procure the assets at the termination point. But I am absolutely not making any link between those 2 points.

Deputy A.D. Lewis:

So in 2012 the discussion was occurring then about the lease coming to an end and what might happen between that point, 2012, and 2015. The answer to that was in effect ...

Chief Executive, States of Jersey:

The operator was seeking an extension in order to continue with the rest of the investment.

Deputy A.D. Lewis:

Was that not too late though because you just said yourself that really it needed to be 3 or even 4 years' previously, so why was not discussion occurring before that? Was it because there was no strategic oversight of the whole issue of fuel from one particular department?

Chief Executive, States of Jersey:

I think we are in danger of confusing and conflating 2 issues here. One was there is an asset there that had been upgraded and maintained, so from a strategic provision of an asset to supply Jersey with fuel it was there and it was going to be there for the foreseeable future. Who operated it may be a different question. But the asset was there to operate and provide fuel for Jersey. The incumbent operator had undertaken quite a lot of investment by refurbishing all of the tanks and installing new equipment in line with the recommendations that came out of Buncefield and the Atkins reports, and they had a second phase which was the installation work, which I referred to, which needed a longer period, so they were looking for the extension on their lease. So that extension or renewal of their lease provided the continuity, so from a strategy point of view Jersey had a fuel farm, Jersey had an updated fuel farm because an investment had been made, it needed a bit more, and it had provision for the long-term continuity. Long, long term is it right to stay there or move to another location, I have already covered. So from a strategy point of view it had it there but I think the key point is there was a clause in a lease which was not invoked.

The Connétable of St. John:

You say there was a strategy there but the lease was clear that at the end of their lease the site was to be demolished and returned and decommissioned.

Chief Executive, States of Jersey:

No, that is not correct. Sorry, that is absolutely not what the lease says. The lease provided for an option for the States, if they wished, to procure the assets. If the operator then was to vacate the site then the responsibility for clearing the site rests with the operator but it did not immediately say if ...

Deputy A.D. Lewis:

I think, John, if I just stop you there because that brings us neatly on to Judy. Do you want to go on to your question now?

Deputy J.A. Martin:

We are getting a bit off the subject, but you did mention the option for the States and my question is: why were the options for the States to take over control of the fuel farm not presented in a formal report and presented to the States in 2012, when these 2 issues, as you put them, came to light?

Chief Executive, States of Jersey:

Very simply because that option was not brought to anyone's attention. There was one clause in the lease, I cannot remember the clause reference now, but it is clearly in the lease, there was a clause in the lease which was inserted, I think, in 2006 and that clause was not invoked.

Deputy A.D. Lewis:

Whose responsibility was it to look at that?

Chief Executive, States of Jersey:

I think you have got to go back to my very opening point of all the players who were involved at the time, who were involved in putting it in. So it would have been ...

Deputy A.D. Lewis:

Would you accept there were perhaps too many players and nobody calling the shots?

Chief Executive, States of Jersey:

In those days when it was put in, because they were the ones who would have known about it, it would have been Ports, Economic Development and Property Holdings.

Deputy J.A. Martin:

So it is accepted that on the opportunities at all stages to explore alternative leasing arrangements or leases were missed?

Chief Executive, States of Jersey:

There was only one clause that could have been used and that was not invoked. Because you could not go anywhere else because there was nowhere else to put it.

Deputy J.A. Martin:

Yes, but right from the beginning of this hearing today you have said no one has been in charge of strategy, nobody is in charge of securing this, nobody was looking at the lease so you must accept opportunities were missed because nobody was doing their job.

Chief Executive, States of Jersey:

I have said that particular clause was not invoked.

Deputy A.D. Lewis:

But your head of Property Holdings did say to us in a hearing ...

Deputy J.A. Martin:

I am not asking if the clause is acceptable, I am asking if opportunities ... you accept opportunities were missed because nobody was in charge.

Chief Executive, States of Jersey:

I am saying the opportunity to invoke that clause was not taken.

Deputy A.D. Lewis:

So was it missed or not taken?

Chief Executive, States of Jersey:

Well it certainly was not brought to anyone's attention.

Deputy A.D. Lewis:

Who would have been responsible for bringing it to the attention because when we asked your head of Property Holdings the same question he said: "I did not bring it to anybody's attention because I was never asked." Which we thought was a bit of a strange response seeing as he was one of the key players with responsibility for things like leases. I guess when there is no one single person with responsibility or one single department this is when sometimes the opportunities can be missed. Would you accept that that is possibly what has happened here?

Chief Executive, States of Jersey:

Yes, I would accept that. I think there are a number of parties involved and if there was a clause ... well, there was a clause, it is clear and simple as that, then it was not picked up.

Mr. G. Drinkwater:

Were opportunities to tender the fuel farm to other operators explored?

Chief Executive, States of Jersey:

The simple answer to that is no, because there was no opportunity to do so.

Mr. G. Drinkwater:

In 2012 would it not have been one of the things that we could have investigated?

Chief Executive, States of Jersey:

If a decision had been taken to invoke this clause we have been talking about then there would have been a process to have gone through, there would have to be an agreement with the operator, their assets would have been valued, the States would have had to, at some stage in a budget, make provision for whatever that valuation was, and then a full open tender process would have had to have been gone through in order to get to an agreed handover of those assets at the due date.

Mr. G. Drinkwater:

I just thought that with all the discussion and debate going on it would be natural to have that as a fall-back position, to be aware of the issues.

Chief Executive, States of Jersey:

I think you also must not lose sight of the fact that there were other issues that were going on in 2014, if I remember rightly, where there were originally 3 operators on the site, which went to 2. Obviously in terms of interest and holdings in the assets and how it was operated changed. That was subject to a C.I.C.R.A. review and C.I.C.R.A. commented on that and stipulated clauses, so it was obviously looked at by a competent authority, which was C.I.C.R.A., or J.C.R.A (Jersey Competition Regulatory Authority) as it was in those days, for allowing one operator to buy out the other operator's shares and become the predominant operator there.

Mr. G. Drinkwater:

It is still the States lease and the States asset so I would say it is the States responsibility.

Chief Executive, States of Jersey:

No, sorry, it is not. No, it is not. The States only own the land. The States have no interest in the assets. All the assets are owned by the operator.

Deputy A.D. Lewis:

But if you were going to take an interest in those then you would potentially purchase them. You are just saying there was no allocation within the States budget to do so. But was there ever a valuation done to find out what it would cost anyway in order to assess as to whether it was something the States would consider in their budget planning?

Chief Executive, States of Jersey:

Not that I am aware of.

Deputy A.D. Lewis:

So no valuation ever took place?

Chief Executive, States of Jersey:

No, because I am not aware, certainly pre the lease being renewed, there was ... it was never brought to anyone's attention to say: "We need to go out and get an expert determination and valuation of the asset."

Deputy A.D. Lewis:

Should that not be one of the roles of Property Holdings valuing their assets?

Chief Executive, States of Jersey:

They are not their assets.

Deputy A.D. Lewis:

They are assets sitting on their land that they may wish to acquire or may wish to present something to the States in the form of a report saying: "These are the options, one of which might be acquiring."

Chief Executive, States of Jersey:

With respect, we own gas company land, we do not go out and value their assets. We own a lot of other land which have got other people's assets on. We do not go and value that.

Deputy A.D. Lewis:

But if you have got an opportunity not to renew a lease and one of the options would be to acquire the chemistry set, I think it has been described, how can you have that discussion or even thought process not knowing what those assets might be worth?

Chief Executive, States of Jersey:

I will refer back. If the decision had been taken in about 2012 that the clause in the lease was going to be invoked, that decision would have started a process off, first of all would have been to have got the assets valued and expert determination. In all these it is very clear that we get them valued and they would be at that value and no doubt the incumbent operator would have them valued by themselves and they would be at that end and there would be determination to get to an agreed price.

[13:30]

So that did not happen but that is what would have happened. Once you got to that stage the States would then have to have ... I say “:have to”, I would have thought the States would have then had to inscribe a value in a capital programme, because it would have been purchased as capital assets, that would have had to go through the requisite budget, at budget time, so that the money could be inscribed in a budget somewhere. Then a formal tender process would have had to have been entered into with competent operators, so there could then be an effective handover on the due date because I think this ... going back to Deputy Martin’s question about if that had not happened then once the lease had expired the incumbent operator was then required under the lease to then clear the site. For Jersey that obviously would not happen because we do not want the operator to clear the site.

Mr. G. Drinkwater:

I suppose we were just trying to get to the root of whose responsibility was it to initiate discussion up to and including the negotiation period for the States to buy the assets.

Chief Executive, States of Jersey:

I think that does come back to what I have been trying to say throughout, is that that opportunity which was there in probably about 2012, for whatever reason, was not taken. There were a number of parties involved, which I will say it again: Ports, Economic Development and Property Holdings. Those were the 3 main parties involved and somewhere in that mixture that clause was not highlighted for someone to take the decision.

Deputy A.D. Lewis:

In the realms of normal strategic planning, of which you play a vital role in the States for strategic planning in all sorts of ways, and this is a key element of it, was no thought then given to a long-term vision at that point; 4 years from the end of this lease? One of which may have been: “We have got no chemistry set to do the work if we do not renew this lease therefore we would have to acquire it or build our own” so the form of the report that I was describing earlier, that Judy mentioned may have been laid before the States that never was, in order to do that or think about doing that, surely you would need to know what the cost of that option might be. Are you saying that there was no attempt to find out what it might cost to build a fuel farm and no attempt made to discuss as to whether a new fuel farm was one of the options that you might consider or acquiring the one that was there?

Chief Executive, States of Jersey:

I think the starting point has to be there is no point in considering building a new fuel farm if you know the land is still 10 years away from being created. So there was no urgency of saying: "We have got some land, we really ought to move from A to B because we can ..."

Deputy A.D. Lewis:

Not so much building a new one, but acquiring the assets of a new one you cannot discuss as to whether you would want to do that as an option if you do not know what they worth.

Chief Executive, States of Jersey:

But at that stage there was no indication there was a problem with the operator. There was not a problem with the operator. They had done what they said they were going to do, which was upgrade the tanks they had operated. C.I.C.R.A. had made a determination in terms of agreeing the takeover of the shares from one company to another, so there was nothing there which effectively said: "We need to go and tender this." Certainly there was no decision taken and the clause that was in the lease was not invoked.

Deputy A.D. Lewis:

Okay, I will come on to another question then shortly about one Minister who had particular concerns that I think you were aware of. You would spend a lot of time on risk assessment during your role. What risk assessment did you do here concerning the continuity of supply of fuel going forwards during the period of uncertainty which occurred at the end of the lease and before that. What sort of risk assessment did you do during that 3-year period about fuel and the continuity of supply?

Chief Executive, States of Jersey:

Well, I am going to break this into discrete chunks because it is easier to describe it. In terms of the long-term view, with which I have been involved for many years, the risk assessment was purely about making sure there was enough fuel storage for winter months if there was a storm and a ship could not get over. All the strategic reserve effectively. I am certainly aware of a number of scenarios that were looked at many, many years ago of what happens if. So if the fuel farm was to burn down, which I obviously hope it never will, how do you bring fuel in in the short term. Now, there were provisions made for the short term where it was an absolute emergency, i.e., you had no fuel because there was no fuel farm but that is very different - and I think this is a crucial point that I was aware of - that point was not recognised when I involved from 2015 onwards to close this problem off. There is a distinct difference between you have no fuel farm, there is no fuel in Jersey, to having a disagreement with an operator and having an asset with all of the facilities you need to operate the fuel farm and because you cannot come to an agreement you put gallons of fuel at risk. They are completely different. If the former happens then you have

to bring fuel in by road tankers, motorway road tankers or whatever in order to provide fuel because you have no storage facility. But you are then taking a very high degree of risk for Jersey and that is a very different scenario to we failed to make an agreement when the operator has got the chemistry set, the right chemistry set to operate. There is a very clear line in the oil industry, which was my previous industry, which was safety, security, commercial. You never, ever compromise on those and safety is always number one. Always number one. So risk and safety are crucial. As I say, if your fuel farm burns down tomorrow, I hope nothing like that ever happens, then you have to take risk in order to preserve your security of supply but you never allow security of supply to overtake safety.

The Connétable of St. John:

On that point, if the fire service had come in and said: "Sorry, safety is not of a high level" their only option was to say: "We are closing the farm down." So that was ... and you have just said that safety was the number one issue. So if, under those circumstances, the fire service had said: "Sorry, it is not coming up to standard, we are closing it down" what options were there then for supply of fuel? Surely you must have examined that option?

Chief Executive, States of Jersey:

The question I think you have to ask back is, okay so if you are going to close the fuel farm down, why? If it is because you believe that there are safety requirements that need upgrading or changing, are you going to close it down and stop it operating, and we need alternative measures which are going to be of a higher risk in allowing it to run in its current format or being accepting you need to do some improvements. That is a very different argument. If you have a chemistry set which was built in the 1970s, I think, and the operators who have been on site ever since then have always maintained it - obviously standards change post Buncefield and the operators accept that - you have a fuel farm that was built and maintained to a set of standards, controlling industry standards, and they have been the continued operator. I think it would be very unlikely that anyone would say: "Close that down and use an alternative route for bringing fuel in." It is a higher risk than keeping it running. The pressure had to be about getting the work finished.

The Connétable of St. John:

But if you have not risk assessed bringing it in, how can you say it is a higher risk? I am saying that the fire brigade has more or less said to us that the only option they had, if compliance of safety did not take place, was to close the fuel farm.

Chief Executive, States of Jersey:

Yes.

The Connétable of St. John:

So you are saying now that the only other alternative was higher risk so you could not, in effect, do so. But there must have been another option available or at least examined because if the fire service had said: "Right, this is the only option we have, we will close it down" there must have been another option that had been explored?

Chief Executive, States of Jersey:

Yes, the other options were explored, certainly in the time that I became involved, which was from early 2015 up until the point of signing the lease. Other options were explored with the fire service and with the Ports and they all carried significant risk.

The Connétable of St. John:

This was during 2015?

Chief Executive, States of Jersey:

I became aware of the problem with the lease not being signed and there were delays in getting it signed and getting the remaining work undertaken. It was early 2015, I think it was about February but I would need to go back and check when it was. From that point on there were a core group of officers and politicians who were briefed regularly on progress. At that stage - and you have had it out in previous hearings with the chief executive of the Ports and the fire chief, I believe it was last week - we did look at alternatives and if we could not get agreement to operate the fuel farm and if for any reason things had gone completely wrong with the lease and the operation, was there an alternative? The simple answer is there could have been and in the ultimate emergency where that facility did not exist because it had burnt down or physically was not there, you would have to take more risk. But the fire chief's words were he was not happy with that, he considered them to be high risk.

The Connétable of St. John:

But post-Buncefield, if the operator had said, following the Atkins report: "No, we have a lease, we are quite happy, we are not going to do anything" you must have at that time, way back in 2009, had some form of risk assessment and some form of plan B if that was the case?

Chief Executive, States of Jersey:

We certainly had the formal risk assessment because that was what the Atkins work was based on, which was on the back of the Buncefield fire and the recommendations that came out from H.S.E. which brought in hazard zones. That is where the risk assessment was and the risk assessment was clear that we had to then do some upgrading, along with many other installations in the U.K., on our facility and there was never a question of it not being done. The operator was perfectly happy to do it. But they said, and I can recall it because it was at a time when I was

chairman of the Hazard Review Group and we got the work underway, that they would undertake the work but they would have to phase it because, as I have already explained, they had to do it over sequencing because they had to take each tank out and service in turn, and to be fair to the operator they did just that. There was never any question of not doing it. They did it. Where the problem came was by the time they had taken all of the tanks out and refurbished them to get them up to the required standard the next tranche of investment, which was the fixed installation, they did not have enough time left on the previous lease in order to complete the work and depreciate it. So they said: "We want the lease extended in order to continue this piece of work." There was never a falling out with the operator over the implementation of the safety standards, it was purely timing that caused the problem.

Deputy A.D. Lewis:

But they were saying that: "We will not do this unless you give us a new lease", significant investment, basically, were they not?

Chief Executive, States of Jersey:

At the end they absolutely said it.

Deputy A.D. Lewis:

So you were kind of a victim of circumstances, nobody could anticipate Buncefield, but it did happen and it meant they would increase their safety standards, but you could not have predicted that. Is that what you are saying? So the commercial discussion you then had as a direct result of that was you could never plan that, but they kind of had a gun to your head in that: "We are not going to do the installation upgrades unless you give us a new lease"? Is that the way it was?

Chief Executive, States of Jersey:

I do not think I would use "gun to head" but it was clear that they said: "We are ready to do the next phase of the upgrade but we have to depreciate X pounds, we need the lease in order to do it." The option could have been, and it was discussed, is had we had time - and again you want to go back in time to the right point - the option could have been that the States should have paid² for the upgrade. So instead of saying to the operator: "Okay, you do the upgrade and you depreciate it over an extended period of time" the decision, if it had have been taken could have been in 2012: "No, we want to put the site out to tender but we do not want to delay the upgrade of the safety for the next phase therefore we will put the investment in for that, but we have to serve notice in terms to do the valuation and tender exercise." But because it was not ...

Deputy A.D. Lewis:

So you are saying it could have gone out to tender in 2013?

² Correct words inserted on 14th September 2016, following advice from Chief Executive

Chief Executive, States of Jersey:

No, what I am saying is ...

Deputy A.D. Lewis:

Because I thought earlier on you said that it was not a possibility?

Chief Executive, States of Jersey:

No, what I am saying is that had the decision been taken in 2012, so someone said: "There is a clause here that says: 'If you wish to purchase the assets you can do so but you are going to have to go through formal process'." The deadline for that was July 2014. So in order to meet the deadline, the decision would have to have been taken well before that in, I would suggest, 2012 at the latest. Now, at that point the operator would clearly have said: "We have no security of tenure post-2015, therefore we are not going to put this last phase of investment in."

[13.45]

We, the States, could have said: "Okay, we are going to invoke the clause, we are going to put the site out to tender but we recognise you are not going to put this investment in, we will put the money in now (in 2012) in order to complete this last phase." But because it was not considered that option was never taken. When it became apparent, which was only later, it was after the trigger point which is July 2014.

Mr. G. Drinkwater:

Would it have been better now with hindsight to do a 10-year lease or would it have been better to do a 5-year lease to give the States more options?

Chief Executive, States of Jersey:

On this renewal?

Mr. G. Drinkwater:

Yes.

Chief Executive, States of Jersey:

There was quite a lot of discussion about that, whether it should be. Certainly one of these was 5 years probably is not enough, because by the time you start today, bearing in mind the land has not been created yet, so you have to create the land, you have to consolidate the land, because newly formed land takes to consolidate, you then have to go through all the planning process and decision as to who is going to fund it. So do we have to fund the investment in the assets so we own the assets and then we go out to lease or for an operator to come and operate, in which case

the States would have to put capital investment in or you go out, create the land and then say to an operator: "You build and operate it" which is what happened in the 1970s. So the view - and I was not involved in those discussions - was that 5 years probably is not enough.

Deputy A.D. Lewis:

John, I just want to raise a minor point with you that is related. We had a very useful meeting with the Emergency³ Planning Officer last week, as you know, and we raised this issue about the period of time it took for various safety things to be implemented and why there was delays and so on. But he suggested to us he was somewhat frustrated in the delays that were occurring in terms of the negotiation of the lease, because it kind of affected, as you were describing earlier, things like safety. If I can just put something to you, if I may. As a review group from June 2012 onwards and throughout 2012, 2013 and 2014, we were told they were repeatedly informed by T.T.S. and Property Holdings that negotiations were taking place and that the signing was imminent but for some unknown reason this never got progressed for 3 years. Can you explain as to why that was the case? So we had 3 years' negotiation going on, was it just really hard negotiating with these guys or why did it take 3 years?

Chief Executive, States of Jersey:

I cannot answer that question because I do not know why it took so long. I am only ...

Deputy A.D. Lewis:

That presumably is why opportunities were missed?

Chief Executive, States of Jersey:

I am only aware ... I became aware that there was a problem in very late 2014, early 2015, which is when I became involved then in trying to close this off because the Minister for Home Affairs was raising the issue that the lease had not been renewed and he was getting very frustrated. I cannot remember whether he raised it with the Chief Minister directly or with ... but it certainly became aware within Cyril Le Marquand House that there was a problem and at that stage the Chief Minister said he wanted updating regularly, and I then set up the group which progressed it to getting to the stage where we eventually signed the lease.

Deputy A.D. Lewis:

I would be interested to know who was on that group because a question I had for you as well is did any States Member or officer raise the issue during the lease term exploring alternatives, making you aware of some of the concerns they had about the existing operator? Was there any specific Minister or any officers that raised this issue?

³ Amended to read 'Emergency Planning Officer, 14th September 2016

Chief Executive, States of Jersey:

There was a lot of discussion about the operator and the future and alternatives and options.

Deputy A.D. Lewis:

Were there concerns expressed as well about the operator?

Chief Executive, States of Jersey:

Sorry?

Deputy A.D. Lewis:

Were there concerns expressed about the operator?

Chief Executive, States of Jersey:

There were concerns expressed about a number of matters on the whole operation of fuel facilities in Jersey.

Deputy A.D. Lewis:

Who, in the main, was flagging that up?

Chief Executive, States of Jersey:

I do not think it is appropriate I comment on individual Ministers or individual politicians; I think other than to say there were a number of concerns expressed. I can only go on the facts of the evidence I had which is ...

Deputy A.D. Lewis:

Okay, well we have some evidence, email chains between yourself and Ministers, and one Minister in particular who had responsibility for Economic Development and then Treasury - I am talking about Senator Ozouf here who we have interviewed - and he expressed serious concerns quite a long way back. He has had a keen interest in competition in the fuel markets, as you know. It is well documented. So he was raising this issue continuously and we have all the emails to back that up going right back many years. So this issue was very clearly and articulately by one particular Member who was a Minister in charge of 2 key areas that would have some responsibility for this situation, i.e. Economic Development and Treasury, who obviously Property Holdings report to. Did you not act on any of that concern that Senator Ozouf was expressing?

Chief Executive, States of Jersey:

The concerns that were being expressed were obviously taken into account when we looked at ... when I got to the stage of being involved in early 2015 onwards, yes, obviously we were concerned and there was the issues that were raised but it was too late to then step back and put

the facility out to tender. So, yes, concerns were raised and C.I.C.R.A published a report in 2014, I think it was ... no, November 2015, C.I.C.R.A released a report. So that was their investigation and their review. As I say, there were a lot of views and ultimately that can only be established through market testing. Opportunities to undertake that market testing, as I have already explained, were not taken at the right time. It would have to have been taken in probably 2012 in order to get that full test undertaken.

Deputy A.D. Lewis:

So you are accepting there was correspondence from senior Ministers on this subject many years before 2015?

Chief Executive, States of Jersey:

I am sure there would have been, I am not sure if I ... certainly I am aware of a lot of correspondence in ...

Deputy A.D. Lewis:

Yes, I am not expecting you to keep that at the top of the mind but perhaps you want to give that some thought and come back to us with any responses you may have made to that Minister and others about concerns they expressed.

Chief Executive, States of Jersey:

I am very aware the responses I was making post my involvement in 2015 ...

Deputy A.D. Lewis:

No, we are talking about the trigger points that occurred several years before here. I am just trying to drill down to how this got missed, that was all, when it was flagged up by Ministers in particular, but apparently not by officers. The Chief Officer of Economic Development also flagged up the issue. He was particularly interested in the competition issue at the time.

Chief Executive, States of Jersey:

In 2011?

Deputy A.D. Lewis:

2011, yes.

Chief Executive, States of Jersey:

Yes, which is from Economic Development, but clearly the competition side of it was ... the responsibility then was with C.I.C.R.A. or J.C.R.A, as it was then, under the Competition Law.

Mr. M. Robinson:

John, just looking forward for a moment now, given that a new 10-year lease is now signed, what steps have been taken to ensure upcoming lease renewals are given time to be considered and all options fully evaluated?

Chief Executive, States of Jersey:

I think the first step to be taken is we have now created the Department for Infrastructure so that brings together Property Holdings and Infrastructure. The fuel farm, without doubt, is a critical infrastructure for Jersey and - I have said a several times already in this hearing but will repeat it again - the right place to put the fuel farm, certainly in my opinion and I think most people's opinion that have been involved in this, is at the most south-easterly point of the current La Collette 2 reclamation site because that way the hazard zones only encroach on to our land to a limited area, the circles that go round the site and some of them will be out at sea. So the land has not been created yet so what I have said to the chief officer of Infrastructure is they need to, which they are doing, look at the infilling arrangements so that as that land becomes available it is earmarked for that site. I think that has been well documented.

Deputy A.D. Lewis:

Sorry, John, can they infill a specific grade of waste so that it is easier than to site something as heavy as containers on?

Chief Executive, States of Jersey:

The answer is, yes, you can. The only problem is that you then destroy your recycling. For the land to be sufficiently strong it has to contain a lot of stone to get it ...

Deputy A.D. Lewis:

Yes, that is what I am getting at really.

Chief Executive, States of Jersey:

So you would have to then change your recycling policy which is to try and extract as much aggregate as is safe to do so in order to recycle the aggregate back into the market. So you could say for that area it has to be a particular type. But whatever happens, that land has to be created.

Deputy A.D. Lewis:

Is that a decision that you will make, though, as to what goes in that hole so you do not get a firm footing for a new fuel farm?

Chief Executive, States of Jersey:

Infrastructure will have to make that decision.

Deputy A.D. Lewis:

That is something they are considering?

Chief Executive, States of Jersey:

It is pretty well documented how you have to create the land and build a reclamation site, and in my career you know when you get the mix right and you know when you get it wrong. So they have to make sure that is created. You then have to start thinking ... I would suggest it would have to be probably in the next year or 2 at the latest as to what is the timeframe for that land to be created, make sure it is earmarked, so it does not get used for anything else, and then start thinking about how you are going to develop the specification and the documentation in the contract. Because the question will have to be: do we, the States or the public, wish to own the asset so that you have longevity and you do not have the same problem we have just had on the previous one because we do not own the asset - if we want to own it then we have to make sure that the right amount of capital is available at the right time to invest in it and then go out to the market for a competent operator. Alternatively, it could be, in timescale, make sure the land is created by X, which needs to be several years before the existing lease expires and then put the whole operation out to tender, but the tender includes for the incoming operator to construct the assets, which is bringing it back to the same position we are in now. So those are the choices that need to be made, I would suggest, in the next 12 to 18 months, maybe 2 years maximum so that there is a long-term plan as to what happens in 2026, I think it is, when the lease comes to an end.

Mr. M. Robinson:

So having Infrastructure in control of the situation now there should not be any slippage. They will be on top of it, they will be looking at timescales and making sure that trigger points are met?

Chief Executive, States of Jersey:

Yes, there will be slippages if ... creating a new asset of that scale is going to require significant investment. There will be an investment decision point as to who puts the investment in. Is it the States, public, or is it that you put it on to the new operator?

Mr. M. Robinson:

So it is not a given that in 10 years' time that it will be on the new reclamation, that might not be achieved for one reason or another?

Chief Executive, States of Jersey:

I think the States will ultimately have to make that decision but it does seem a shame that if the current site, which will be over 30 years old by the time we get to that point in time and it does restrict the use of the land at La Collette ... I will express a personal view - it seems to me to be a shame to miss the opportunity of saying: "Move the facility, get the new facility built to the right

standards” et cetera, but then do so so that you can then free up the land it is currently sitting on for other uses.

Mr. M. Robinson:

Absolutely I can see that. But if, for whatever reason, that does not happen in the timescale, there would have to be a fall back.

Chief Executive, States of Jersey:

The fall back is stay where you are and make sure that ... given that currently the States, the public, do not own the asset the choice then would be, do we then buy the assets? Do the States buy the asset and then lease it, have an operator to operate it?

Deputy A.D. Lewis:

Do we still have no idea what it is worth? You are considering maybe buying it as one of the options but you still do not know what it is worth?

Chief Executive, States of Jersey:

No, I would not want to comment on what it is worth, I have had too many different numbers.

Deputy A.D. Lewis:

What it is worth, I suppose, is what someone is prepared to sell it for?

Chief Executive, States of Jersey:

It is what we value it at and we think it will cost to build a new one, and what the operator thinks it is worth today.

Mr. M. Robinson:

Is there work currently being undertaken then to look at the fall-back option? Ten years will go pretty quickly.

Chief Executive, States of Jersey:

Well, as I said, I think what Infrastructure needs to do, in the next 12 months maybe maximum 24, is come up with the plan for what it will look like and then start having the discussions as to when will the line be available and decision taken as to are the public going to invest in it through a capital programme to build it, in which case we have to get some costs for what it would cost to build one. Then, third, what sort of lease do you put in place for an operator to come in and operate it. If you do not do that then you are effectively saying in 5 years' time, there is a piece of land that will be available, put it to the market and the market comes in and builds and operates. Alternatively, stay where we are.

Deputy J.A. Martin:

Can I just confirm then, John, you are saying there is a lot of work to be done by Infrastructure in the next 12 months, maximum 2 years, on the 3 main points: do we move, money, do the States want to own it. My question basically is are you confident that the Minister for Infrastructure has put a team in that is going to be accountable to these questions if we come back in 2 years' time and you have not missed anything? Are you confident?

[14:00]

Chief Executive, States of Jersey:

I am confident that the Chief Officer knows what he has to do, which is plan well ahead of time to make sure that whatever decisions need to be taken can be taken in a timely fashion knowing how many hurdles this will have to go through. I suspect there will be a lot of debate about the new facility.

Deputy A.D. Lewis:

Talking about community planning, disaster recovery, all those things that you look at every day in your job from a risk assessment point of view, unlike Guernsey that has 2 fuel farms in 2 different locations - one in St. Sampson and one in St. Peter Port, I believe. I am not sure if they are operated by the same operator or not. Do you think we are vulnerable having everything on one site, and I am talking about everything being gas, oil, diesel, house oil, an incinerator plant, all in one location? This may be common in other Islands too but certainly Guernsey has found one solution. Do you think we should be looking more closely at this? Looking at alternative solutions so we have a full D.R. (disaster recovery) programme because if we cannot get to La Collette we are in a bit of trouble.

Chief Executive, States of Jersey:

I think certainly the fire service have always flagged up that the La Collette area is a significant hazard because all the facilities are there. The idea and the concept of moving the fuel facility as far as possible to the southeast, as I have already described, puts a very high degree of separation in between the electricity company, the incinerator and the fuel facility. So you are separating the assets out, which only improves safety. You have probably seen the hazards zone, you have probably seen the map showing all the zones. Once you get out into the further zones clearly the level of risk is significantly reduced.

Deputy A.D. Lewis:

So you are satisfied staying in that rough location is the way to go?

Chief Executive, States of Jersey:

I believe that is the only option that is available for Jersey in terms of its strategic fuel farm. My strong recommendation would be that it is moved when the land is available and certainly be ready for the expiry of the current lease.

Deputy A.D. Lewis:

Okay, I just want to cover one final thing before we wrap up with the final question. We are told in the correspondence that Rubis, for example, threatened to stop accepting any further fuel supplies unless the lease was agreed to. It subsequently turned out from information we received from the Fire Department that there was no decline in the fuel stocks because they monitor them weekly, but anyway they made the threat. They also threatened to clear the site and take away the chemistry set if an agreement was not reached, which is certainly within their right to do within the lease that they had. Clearly there would have been a cost to remove the equipment on the site to them and there would have been an opportunity lost to sell the equipment to somebody else; do you really think they would have pushed that button based on the fact that they would lose the cost of clearing the site and the opportunity to sell the equipment?

Chief Executive, States of Jersey:

I cannot answer for what they may or may not have done but we were into negotiations, we were putting in a lot of new clauses in the operating agreement that were commercially challenging. It was a commercial negotiation and both sides took particular lines.

Deputy A.D. Lewis:

The only way you could have called the bluff would have been to have had a contingency in place should they say: "Right, we really will stop taking more fuel on." I believe there was a contingency plan put in place, but do you feel that was really only for the absolute emergency and not something that would be used for commercial persuasion?

Chief Executive, States of Jersey:

Well, if you have heard from the Fire Chief already in terms of his views of contingency plans, my views would not be different from the Fire Chief's, they are there to be used but you only use them in the event of a major problem. When you are moving away from a tried, tested and properly constructed asset into alternative contingency plans, you have to accept that you are significantly increasing the risk you take. If you want to press that button, that is fine but you do so knowing full well that you are exposing yourself to more risk. That is something that I certainly would not recommend but it is fair to say we had fairly challenging commercial negotiations to get the operating agreement as we wanted it, which we did at the end.

Deputy A.D. Lewis:

But in negotiating with them we did not know how much it would cost to clear the site, we did not know what it would have cost to buy it either, is that correct?

Chief Executive, States of Jersey:

They expressed views as to what it would cost and they expressed views as to what it would cost to buy the assets from them. Those are their views. We did not go to the point of having expert determination or employing surveyors to come in and value the assets for us.

Deputy A.D. Lewis:

Okay, thank you. Finally then, I think you have mentioned some of this already, what lessons do you think have been learnt since this lease was signed, going forward?

Chief Executive, States of Jersey:

I think the first lesson would be know what you have got and plan well ahead because, as we have already covered, there is a 10-year horizon for moving the fuel farm if that is the decision that is taken, but it needs to be thought about well ahead. So that would be my view about lesson learnt going forward. I do think that it is certainly the right thing to have separation so you have one department, the Minister responsible for the Infrastructure, which we now have, and having that clarity and role between the infrastructure provision and the regulation, which we have. We have now got C.I.C.R.A. who regulate, so that will be on fuel and pricing and on fairness in the marketplace. That is C.I.C.R.A.'s job and they should stay obviously in that role as independent, as covered by the law, and you have one party who is responsible for the operation.

Deputy A.D. Lewis:

Do you think that the new agreement, which is a lease and an operating agreement, represents best possible value for Jersey?

Chief Executive, States of Jersey:

Without having tested the market it is very difficult to answer with a yes or a no. What I am confident is we have an operating agreement which is very clear ... there are 3 agreements: there is a lease, which is a piece of a land on which the operator can operate; there is an⁴ operating agreement, which is very clear in terms of what it sets out to achieve and what the operator has to achieve, and there are clauses in that agreement that if there is failure then there are remedies in that; and there is a throughput agreement, which allows for other operators to throughput fuel and

⁴ Chief Executive amended to read 'an operating agreement' rather than 'a free operating agreement', 14th September 2016.

a fuel-back facility. There is also on top of that a fourth one, which is the Fire Service Fire Safety Certificate. So there are 4, and a fifth, if you like, which is around C.I.C.R.A. as a regulator on pricing. So effectively you have 5 levels of control, some at various stages but you have 5 areas where different bodies can exercise control if required.

Deputy A.D. Lewis:

Does it present value?

Chief Executive, States of Jersey:

It is very difficult to say "value" because ...

Deputy A.D. Lewis:

Well, good value, best value?

Chief Executive, States of Jersey:

I do not think I can answer whether it provides best value. It provides Jersey with a ...

Deputy A.D. Lewis:

Would you agree with C.I.C.R.A.'s findings then that it does? Or there is no profiteering going on?

Chief Executive, States of Jersey:

I am not going to comment on a commercial aspect of the fuel market because I am not an expert in it and I would want to see the evidence. I can only go on the evidence that C.I.C.R.A. have provided so far.

Deputy A.D. Lewis:

We will ask the Minister responsible for competition on that one then.

Chief Executive, States of Jersey:

That is for others to comment on, I am not going to comment on value.

Deputy A.D. Lewis:

That is fine. Thank you very much. Do we have any further questions? Thanks again for giving up your time today, John. That has been a very useful information gathering exercise and we thank you for your time.

Chief Executive, States of Jersey:

Thank you very much.

Deputy A.D. Lewis:

Thank you.

[14:08]