

Consultation responses to Draft Determination of 1st October, 2019

9th October - 17th October

18. Two residents

“We would like to thank the Commissioner for this very thorough and revealing draft determination and for this opportunity to comment. The draft determination highlights the large amounts of money apparently extracted over many years by Sark Electricity from the residents of Sark through the supply of electricity. That this has been allowed to continue given that electricity is considered an essential utility is unfortunate. It must not be allowed to continue unchecked. We therefore fully support the price control legislation and the work of the Price Control Commissioner.

The degree of secrecy demanded, and the confused information distributed, by SEL further suggests that the reality of the moneys extracted over the years is not something the company wants to be held accountable for by its customers. Given the profits that appear to have been taken out of the company over the years it is difficult to imagine a scenario that would, in reality, have led to any debt owed to Mr T Gordon Brown remaining unpaid. The debt referred to in the determination would appear to be unsubstantiated. It is our contention that the residents of Sark have historically repaid any capital expenditure through the inflated electricity price.

To answer the specific questions in the consultation. The high price means that we use an absolute minimum of electricity - we recently replaced an older freezer with a more efficient model which paid for itself in approximately 8 months! We use LED lighting, cook by gas and heat with oil. Competitively priced electricity would enable more choice and opportunity.

A wind turbine or turbines as described would be perfectly acceptable - as perceptions are evolving and sentiment moving towards renewable energy provision, we believe that the provision of said turbine/s would not only be accepted in the future, but expected. An island reliant on diesel will be left behind in the public's perception to the detriment of future tourism.

The level of return being considered has been very carefully assessed and explained. We agree that it is fair and reasonable.

The risk that the supply will become fragmented with the temptation to go 'off grid' becoming more irresistible is very real. This risk is becoming greater as time passes and the threat of even higher prices looks ever more likely. The inevitable result will be ever higher prices for those left at the mercy of SEL until the company is no longer a viable entity. A price control order would appear to us to be an urgent necessity

We were very disappointed that the price control order of last year was not maintained, and believe that one should be made at the earliest opportunity. Any attempt at a voluntary agreement or any other type of agreement should be resisted as it is, in our view, imperative that the legislation is seen to be effective.”

19. Two Residents

“We were very concerned to hear about the proposed raise to electricity prices. I fear that this will push so many people and so many livelihoods over the brink, ours included. It is already expensive to live and run a business on Sark, but this would make things untenable. We would like to state that we agree with your price determination of 53p in the short term, and we would like to see a replacement of SEL with some other, cheaper electricity provider as soon as possible. In the longer term, we would wish to see the island have a renewable source of energy. “

20. Resident

“Thank you for acting on behalf of the inhabitants of Sark in relation to the recent and forthcoming price of electricity on the island and, more particularly, for your “draft determination” of 1st October 2019. I have read your draft determination, and have understood much, but not all, of it. It appears to me to reveal to the customers of Sark Electricity Ltd possible abuse after possible abuse in the keeping not only of the company’s accounts, but also of its records.

To answer the questions which you ask at the end of your draft determination and which I feel are relevant to me, I would say as follows:-

1. The current price of electricity is certainly limiting my use of it, even though I am one of the wealthier inhabitants of Sark.
2. The installation of wind turbines is certainly acceptable to me, though if other things were equal, which I appreciate that they probably are not, I prefer that they be located offshore than on the island.
3. In my opinion a guaranteed index-linked level of return of 5% per annum is generous under present conditions. The world has recently experienced what is sometimes referred to in financial circles as “a bubble in everything”. While that may be a bit of an over-statement, it is certainly true that the multinational prices of equities, real estate, fixed interest investments, and many “alternative” investments, such as some modern paintings, are at very high levels, which can be regarded as correspondingly speculative because so many purchases of investment assets have been financed in recent years with borrowed money. Accordingly in my opinion there is now a very genuine risk of a huge world-wide slump as over-indebted people, institutions and governments go into serial insolvencies. In these conditions a guaranteed return on capital of 5% p.a. would become immoderately rare and valuable.”

22. Two Residents

Our property is quite extensive, but all the power cables within it serve only us, so the question of wayleaves doesn’t arise. If it did, we would be happy to sell wayleaves.

2. The current price is certainly limiting our use of electricity. We live on a smallholding and grow, catch and rear our own food. Cheaper electricity would allow us to freeze and process far more than we do. It would also allow us to use our outbuildings far more extensively and give us the potential for developing our products as a business.
3. The installation of a wind turbine is acceptable.

4. Our property is quite old and the connections were there when we arrived - we can only assume that the connections were paid for by the previous owners. New connections made since we arrived in 2002 have been made only within the property and were paid for by us.
5. The level of return of 5% is very fair.

Further to these responses, we have a few observations:

1. We don't believe the excuses given for not seeing the court case through last November are credible and Sark lost, not only a lot of money, but momentum, the chance to seize the moral high ground and to resolve the matter once and for all.
2. An apparent inertia on the part of Chief Pleas over the past year has forced us to a point where we will invest in our own home generation if this matter is not resolved very soon.
3. Fair price control is fundamental to Sark's economy. We believe that there exists a strong willingness amongst the residents to support and invest in an island buy-out, overseen by, but not owned by Chief Pleas.
4. There is a frustration that other jurisdictions can impose standards and regulation upon their utility suppliers, but that insurmountable obstacles appear to block Sark's progress towards resolution.
5. The uncertainty of the whole situation, the lack of trust in SEL and the complete irrationality of its owner are unacceptable and should a period without SEL power be threatened once more, we believe that it is worth enduring if it brings about a satisfactory conclusion.

23. Resident

All arguments presented in the Determination were "accepted", apart from the proposal that a return of 5% real per annum is reasonable return for the company (see below). Additional comments were provided for the following paragraphs:-

1. The price would seem to be the highest of any in the world.
2. I know of a number of Islanders enquiring as to how they might go completely "Off Grid" with a mix of Solar (for which they would need planning consent) generators and batteries (the latter which would not require consent). Preliminary financial analysis would indicate that the self provision of electricity would be cost effective compared with a price of 66p and certainty for a price of 85p
3. The assessment of how a business is running must, and the law is clear on this, allow you to scrutinise the actual costs. It would be impossible to ascertain a fair and reasonable price without access to these costs.
7. Consumers are watching and waiting before they embark on the capital expenditure required to go "Off Grid"
8. The price of both wind and solar power has been falling and now both are more economical than diesel generated electricity. There has been little investment in infrastructure over recent years
9. There has been no agreement of a way forward of valuing SEL's assets despite the best efforts of Chief Pleas. Notwithstanding the efforts of these negotiations the work of the Price Control Commissioner is required to proceed.
10. SEL has been opaque in its financial dealings throughout this process and for many years before. It is no surprise that they will not allow information of their assets to become public knowledge.
11. I would like to have sight of this annex.
13. The Island should not have to pay the companies legal fees. The company and its shareholders should bear these costs.

14. Again this demonstrates a lack of open, honest transparency around the true cost of generation of electricity.
16. Chief Pleas would need to consider through the planning process any application for wind or solar plant
17. The wealthier on Island have already expressed a desire to go "Off Grid".
21. Agreed – an efficient company would minimise costs wherever they arise
23. This is common sense and routine practice in valuing assets
24. As above this is industry standard
26. Again a good example of lack of transparency , honesty and openness of SEL
27. Have you taken into consideration the tax system on the Island? A salary of £85,000 in the UK would equate to a "take home income" of roughly £58,000. In Sark there is no income tax. There are however taxes relating to property which I assume will be borne in this case by the lease holder
28. Although We believe that an efficient company could reduce these figures
29. Another example of opaqueness
31. – if negotiations fail I assume that this information will be made available to Chief Pleas and the public
32. More attempts by SEL to introduce "errors" into any accounting that they undertake
33. You state "more than half-way through their operational life". Can you please be more specific
36. It is well understood on Island that some customers have been invoiced for the full value of connection to the grid, cables and labour. It would be wrong therefore for SEL to benefit from this return on investment when they have NOT made the investment
37. industry standard approach
39. Another example of the lack of openness and transparency on behalf of SEL
40. It would seem imprudent to rely on information provided by SEL. By their own admission their records are scant, or in the case of expensive capital equipment totally absent. This is not the behaviour of a well run company
43. – they are a sole supplier so the risk is very low
45. I disagree. A return on a low risk business should be towards the UK average of 3-4%
46. SEL uses unusual accounting methods as you have highlighted throughout this document
48. Accept the premise that if price were to fall then consumption would increase. The price of electricity on Island is strangling the economy of the Island and preventing business setting up on island
51. Although, if the company were more efficient, this would be lower still
55. It would be useful for both Chief Pleas and the Island to have site of these figures
57. Given the total lack of financial information of the assets of the company how can you, Chief pleas and the Island be content about the nature and legitimacy of the "shareholder loan"?
58. More examples of smoke and mirror approach taken by SEL
59. As in 57. We assume that no evidence was produced to back up the 16% figure
62. We would question the accuracy of any accounts that are historical. There is no evidence available to support the cost of assets, why should there be believable evidence to support this loan? We would question the validity of any loan and believe that it might well be fictitious.
64. 5% is too generous especially given the questions relating to all of the above
65. Accept – SEL is not justified to recoup costs through its customers

24. Policy & Finance Committee of Chief Pleas

“On behalf of Chief Pleas through the Policy & Finance Committee, I can confirm that we have no comment to make at this time.”

25. Resident

Draft determination for the purpose of Consultation 1 October 2019 (“the draft determination”)

Thank you for all the work you have done so far in this matter.

As a retired resident of Sark, over the age of 70, I am writing in response to your request for representations on the draft determination and I respond to your points in the order listed in Section 67 of the draft determination as follows:

- I do not own the land on which my home is situated so am unable to respond to this point.
- The current price of electricity means that I am already very conscious of my consumption and I believe that I use it as wisely as possible in my particular circumstances. Such a substantial increase to 85 pence per unit would inevitably lead me to give even further consideration to my consumption and, as a result, I believe that the following would change from being taken for granted to being considered luxuries: watching TV, reading (I have a sight defect which dictates that I need to read on an electronic reader), listening to music, ironing (and I have hitherto taken a pride in my appearance), and computer use other than the Email access and accounting programmes which are essential for the small amount of work I still undertake.
- I agree that the use of wind turbines of hub height similar to that of the telecommunications tower is acceptable subject to the Island’s normal system for Development Control Applications.
- I have not paid for a connection to the electricity system either directly or through a builder.
- I believe that the level of return you are considering, i.e. 5% p.a. is fair. As a low-level saver I can only get a return of less than 2% of my savings. I believe that the additional 3% more than adequately covers the low risk taken by shareholders in a company with a monopoly of supply in a small jurisdiction.

Other matters I would like to raise:

- I note, from your letter to Mr Gordon Brown dated 8 October 2019, that you have not been given information to enable you to ascertain what level of his legal fees should be properly allowed as a cost in determining a fair price. I believe that any costs incurred in trying to stop your carrying out your duties under the Law should be borne by the shareholders and not by the generation business. In any event the financial statement of The Inhabitants of Sark for the year ended 31 December 2018 show that the Island made an out of court settlement of £115,000, presumably to Mr Gordon Brown or to SEL, which should be taken into account on the same basis as the legal charges.

- I note from Section 37 of the draft determination that SEL argues that the level of return on capital assets should be calculated on the replacement cost of those assets with no reduction for depreciation to account for age and/or use. This surely cannot be right if it flies in the face of industry standards recognised in Guernsey and beyond.
- I note from Sections 61 to 63 of the draft determination the uncertainties surrounding the Shareholder Loan and am particularly surprised at the decision to increase the value of the loan by inflation. Prior to my retirement I worked for many years in the finance industry and I have never come across this particular accounting practice.
- I was very upset and offended by a recent TV interview in which Mr Gordon said words to the effect of “some Sark residents are richer than my shareholders”. That statement implies that he is, therefore, justified in charging rich people an unfair, high price. That is totally not the case and, in any event, how does that justify charging the same price to the majority of Sark residents who are not richer than his shareholders. In my opinion that statement demonstrates a complete disregard of the fair service he has a moral (in the absence of a legal) duty to provide to all residents.
- I note from Mr Gordon Brown’s letter to customers dated 7 October 2019 that he is now planning “to also introduce a constructive and forward-looking Sark Green Deal aimed at resolving historic conflicts and transitioning Sark to a low carbon and low-cost energy system”. I look forward to hearing what he has to say on this matter – but what a great pity that it has taken him so many years to get around to this.

Thank you for giving me the opportunity to comment on the draft determination and for taking the time to read this response. I note that this letter will be made available to SEL. I am happy for any part of this letter to be published on your website. Please advise me if you require the original hard copy of this letter to be sent to you.

26. Resident

“I am happy to comment on your questions in the draft determination of 1st October and thank you for all the work you are doing on our behalf.

1. I have a small distribution box which was placed in my front garden years ago for which I was never asked for permission. In principle I have no problem granting/selling a wayleave but would be reluctant to grant it to the current owners of SEL given their recent behaviour.
2. In common with, I think, most Sark residents, my usage of electricity is definitely limited by the price. Any discussions I have had with outside parties involving a level of demand show that Sark households’ usage is way below that expected of ‘normal’ users e.g. in the UK or Guernsey.
3. I would be very happy with the installation of wind turbines of an appropriate scale on Sark.
4. I have not paid for connection to electricity.
5. I feel that the rate of return of 5% is certainly fair though perhaps a little generous.

As a final point I would like to say that if the price of electricity cannot be reduced to a sensible level very soon I will be looking to install a solar system for myself even though that currently means going off grid. I have been considering doing this for a number of years but have held off as I believe it is far better from a social equity point of view that those of us who can afford such systems do it as part of an island wide solution and do not ‘waste’ investment money on lots of small generators. The attitude of the current owners of SEL to the introduction of renewables on Sark defies belief and has held Sark back from

developments which we should have made both from a financial and a climate change point of view.”

28. Resident and company director

“I am making this representation in various capacities; as a resident of Sark and a customer of Sark Electricity for over 40 years, and also as the current General Manager & Director of Stocks Hotel. I believe that Stocks Hotel is currently the single largest consumer of electricity on Sark?

I am greatly concerned how the price of electricity on Sark has escalated over the past 25 years seemingly out of all proportion with general inflation and the local cost of living, and also the global price of fuel.

I have always accepted that if you live in a small and isolated community with restricted access to services, then you pay a disproportionately premium price for various services and utilities including fuel and energy, due to the sheer logistics and economies of scale involved. For many years we accepted that this premium was approximately 2 or 3 times greater than paid by our near neighbours in Guernsey or Jersey. When the premium began to increase to 4 or 5 or even 6 times greater than paid in Guernsey or Jersey we began to question the legitimacy of the differential costs.

The current headline price of .66p per Kwh for electricity is approximately 4.5 times greater than paid in Guernsey. The proposed new headline price of .85p per Kwh is approximately 5.5 times greater than Guernsey. These prices are neither fair or reasonable and they are certainly not sustainable. They have resulted in other businesses becoming untenable and unsustainable, and they have created significant fuel poverty that affects the day to day of lives of virtually every single resident on Sark, irrespective of their age.

In summary of the **Next Steps** in the draft determination;

- We would be willing to sell wayleaves to the designated commercial supplier of electricity on Sark.
- The current price of electricity does undoubtedly limit its use by many Sark residents. Virtually no one cooks with electricity and there are very few electric tumble dryers on Sark. Commercial businesses and most domestic households on Sark use electricity sparingly and with extreme caution. We only turn electrical equipment on when & where absolutely necessary, and we remove 13 amp plugs from sockets when not in use. We have installed low energy electric light bulbs throughout our properties.

- There is no doubt that we, and others, would use more electrical equipment and appliances, more frequently if the price of electricity on Sark was fair and reasonable.
- I would like to see the designated new commercial supplier of electricity on Sark investing in a variety of alternative energy solutions including small wind turbines, heat recovery pumps, PV solar panels and battery storage technology. Wherever possible each of these alternative sources should be designed to have minimum impact on the traditional pastoral landscape of the island.
- SEL charged us £22,000 to lay a new mains cable from the nearest electricity substation to our commercial property in 2010. Rather curiously, the cable that we own was included as a capital asset in recent SEL accounts. This is clearly neither fair or reasonable.
- A return of 5% per annum plus inflation is more than fair and reasonable for the designated new commercial supplier of electricity on Sark to expect. In fact it is rather over generous because the utility supplier would effectively have a monopoly in law to supply electricity across the island.
- The designated new commercial supplier of electricity on Sark should be owned by the community of Sark, probably via Chief Pleas. The new commercial company could be structured similarly to the Isle of Sark Shipping Company ownership and management model.
- I couldn't believe the arrogance & audacity of the current director of SEL in a recent media interview. He demonstrated a total disrespect and disregard for his customers; the residents of Sark and for the provision of an essential utility for the community. He deliberately used a string of deceit, excuses and lies, (*aka smoke & mirrors*), to hide his true motives and the true value of his company including an accurate value of the assets. Furthermore the deliberate reallocation of revenue and profits from Sark Electricity Limited (SEL) to Sark Electricity Holdings Limited (SEHL) is downright deceitful, and totally disguises the true value of the operating company.
- It is neither fair or reasonable for SEL to recover their legal costs directly from their customers. The shareholders of SEL alone should bare these business costs. Their action simply adds insult to injury, and is both audacious and outrageous in the extreme."

29 Resident

"I am writing to you in my capacity as a resident and not as a member of Chief Pleas or Conseiller.

I have read with great fascination ,the replies from the public ,regarding your recent survey.

Last year ,I attended the court hearing ,held in Sark ,between yourself (Commissioner) and Sark Electricity Company.

At the time you had imposed a figure of 52p per unit onto SEL .

However my understanding of the court procedures, was this figure was invalid, as 3p per unit would be held back for compulsory investment by SEL,meaning SEL would actually receive only 49p per unit.

It was further revealed in court that you had agreed a break even/ production price of 50p per unit.

Mr Browns lawyer argued that no one could be forced to sell a product at less than cost price.

Hence, I believe the current figure you are trying to impose of 53p would correct the alleged miscalculation by yourself.

In my opinion this is why the action against SEL was suspended.

The opinions of many of the people who took part in your survey,indicate a feeling of anger towards Mr Brown and SEL.

However ,unlike yourself ,I am a resident of Sark and can assure you there is great confusion as to why the court proceedings were halted ,amongst the public.

Will you issue a public statement explaining your alleged error of judgement ,regarding the price of 52p per unit imposed by yourself last year ?”