



Email to: Alan Witney-Price
Copy: James Penney
Conseillers

3rd November 2022

Re: SEL's letter to customers of 26th October 2022

Dear Alan,

I refer to SEL's customer letter of 26th October, copied to Conseillers, on the subject of my Office's Determination which was published on the same day. My Office does not agree with a number of SEL's statements, as detailed below.

SEL states that my Office reached a "preliminary" conclusion. This is not correct. The Determination reached a final conclusion that prices are not fair and reasonable.

During my time in Office, I have had a number of disagreements with SEL and I am surprised that you describe the matter of island-wide consumption as "the principle disagreement" between us. I have been very clear as to why island-wide consumption figures have been used by my Office to calculate price caps. It is that less wealthy customers should not be forced to pay higher prices on account of poor decisions by SEL causing wealthier customers to "own generate". You should have been aware of this arrangement when carrying out due diligence prior to the acquisition of SEL and SEHL, since this position was clearly articulated in the Determination of 2019. You also undertook not to challenge the Determination as part of the Settlement Agreement SEL signed with my Office in April 2020.

My calculations in the October 2022 Determination indicated the rates of return which SEL could expect to receive from sales on SEL's network and on island wide consumption. Both were significantly higher than the 3.8% SEL indicated would be acceptable. The island-wide methodology would not would not push SEL "into a negative operating position" as your letter claims.

I was also surprised to read your view that "There is no-one on Sark that cannot be aware that Policy 26 was removed by me when I arrived in March 2020". On the contrary, recent communications with a number of own generators suggest they were not aware that this policy has ever been changed, let alone in early 2020. My Office was not informed until July 2021 that this policy had been discontinued. Furthermore, until December 2021 Policy 26 was still shown on SEL's active website. I have persistently asked both SEL and its lawyers for details of Policy 26's replacement, along with details of how and when its customers were informed of the changes. This information has never been provided, even when requested by a Notice served under section 5 of the 2016 Law.

SEL also states "It has always been possible for own generators to exchange power with SEL at fair prices" since March 2020. As explained above, the own generators do not appear to be aware of this, and I have no evidence that this has been communicated to them. I am also aware that own generators were informed that SEL's system could not take their exports, in SEL's public letter of 5 September 2020.

SEL refers to a "policy adjustment" by my Office in respect of island-wide sales. Yet my views on island-wide consumption were expressed in paragraph 19 of the 1 January 2021 Variation. Island-



wide consumption will continue to be considered for setting price caps where my Office judges that own generators have disconnected due to SEL's unfair Policy 26 and do not wish to reconnect and energy exchange with SEL. I assume such trading is now considered by SEL to be technically possible. In the meantime, there will be no blanket discontinuation of island-wide sales but each case will be considered individually.

I continue to await SEL's financial statements which were expected at the end of September. Please do not continue to state that you are awaiting information from my Office on depreciation and RAB value. Figures for both were contained in the recent Determination.

My Office has received a number of complaints from residents about their recent bills. SEL has not adjusted the number of units included in the £40 monthly minimum usage charge, despite the standard tariff being lowered to 65p per unit. Was this an oversight?

Yours sincerely,

Tony
Commissioner

☎: +(44) 7968 861 270

✉: commissioner@epc.sark.gg