

Dear Residents,

SEL's presentation to customers on 20th September 2022 by Alan Witney-Price was both misleading and inaccurate in relation to the activities of my Office. I have the following comments -

SLIDE 7

*"By the end of 2020 and throughout 2021 and 2022 you all heard me say that "SEL is haemorrhaging money" and "we need to review the pricing strategy".*

I will comment on the financial situation in the coming slides but this slide is factually incorrect. There was no Price Control Order in place in 2022, so Mr Witney-Price could "review the pricing strategy" at his leisure. In fact he has changed the pricing strategy a number of times this year and most recently with effect from 1 October.

SLIDE 8

*"In the full year 2020 the Price Commissioner acknowledged a trading loss of circa £75,000. The Commissioner calls this an under recovery. He has allowed SEL to recover this in 2021 and 2022. This is the OPC's idea of building my confidence in his pricing regime".*

My Office has never acknowledged a "trading loss" of £75,000 in 2020. SEL's regulatory accounts show an operating profit for 2020 of £43,782 based on SEL's own management accounts. The additional £75,000 profit that SEL expected to achieve in 2020, but did not, due to lower than forecast consumption figures, does not represent a "loss". This has been explained to Mr Witney-Price on many occasions but he is simply unable or unwilling to accept this reality.

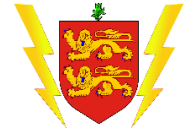
Mr Witney-Price then goes on to say that my Office has "allowed SEL to recover this in 2021 and 2022", linking this statement to lack of confidence in the pricing regime. Mr Witney-Price was expressly consulted on this timeframe and expressed a preference between receiving the full £75,000 in 2021 or spread over 2021 and 2022. His answer, in December 2020, was "SEL would rather see a two year recovery period given the likely ongoing effects of COVID 19 on customers finances". This stated preference appears to have been overlooked when writing to Conseillers on 25th June 2021:

*"These losses are being recovered by the OPC through 2021 and 2022 although SEL was never asked if it was agreeable to that approach or if it could afford to wait up to two years for its money. That the OPC continues to be willing to stray so far from the truth undermines not only the individual concerned but also the Office and CP whom they represent".*

SEL has refused to apologise or withdraw this inaccurate and misleading statement to Chief Pleas.

SLIDE 9

Mr Witney-Price wrongly refers again to a £75,000 "loss" and states "Its lucky that I have the financial means to float the business....." This latter statement is repeated again for



dramatic effect in slide 10. Mr Witney-Price has written to my Office in the past suggesting that I am aware that SEL is financially secure and I have been compelled to write back and say that I am not aware that this is the case. Mr Witney-Price has claimed to have put money into SEL to keep the business afloat. When my Office has requested evidence for these statements in the past in the form of bank transfers for specific months showing the movement of funds either from Mr Witney Price personally or from Witney Price Holdings into SEL, no such evidence has been forthcoming to support these claims.

#### SLIDE 10

Mr Witney-Price states that my budgets do not allow for SEL to “*build a cushion*” against significant financial shocks. Again, he appears to have forgotten that SEL had a working capital budget of £140,000 built into the Price Control Order. Not only is this a “cushion” but it also attracts an annual return.

SEL goes on to say that full year 2021 losses are circa £20,000. SEL wrote to Conseillers on 19 June 2022 stating that SEL's 2021 regulated operating losses amounted to £57,051, almost three times the figure now quoted. However, I understand that Mr Witney-Price has finally agreed with my Office that the values SEL had attributed to SEL's assets were unrealistically high. The regulatory accounts calculated by my Office, based on SEL's management accounts, show that the operating profit made in 2021 was £79,944, or £42,249 after taking into account the part of this profit represented by the under-recovery of 2020. This proves that the “£75,000 loss” claimed in slide 8 was NOT a loss. SEL also had additional legal costs that may well have forced SEL to record a loss, but I believe it is unreasonable for SEL to pass these costs onto customers.

Mr Witney-Price goes on to make the emotive statement “*I just have to pay it out of my own pocket*”. As mentioned above, when evidence has been requested to substantiate this claim, Mr Witney-Price has been unable or has chosen not to provide it.

#### SLIDE 11

Mr Witney-Price writes

*2020 = losses, 2021=losses, 2022=losses.*

This should read:

2020= operating profit of £43,782 with an under recovery of revenue of £75,000 to be added to SEL's profit over two years, rather than one, at SEL's request.

2021= operating profit of £42,249 plus half the under-recovery of revenue from 2020 amounting to £79,944.

2022= no PCO in place so SEL has had free rein to set its tariffs.

SEL has, until last week, persistently refused to provide my Office with essential data such as monthly consumption levels and monthly management accounts. On 28th September I received some of the information my Office has been requesting throughout 2022, as part of SEL's submission to the August draft Determination.



#### SLIDE 12

*“So, for the three years that the OPC has been setting the price SEL has under recovered”.*

This statement is inaccurate on two counts. Mr Witney-Price is aware that my Office, following consultation, imposed a maximum price for two years, not three. The maximum time a Price Control Order can be in place under the 2016 Law is two years and it ended in December 2021. My Office has also shown that SEL’s regulatory accounts show operating profits in 2020 and in 2021. The major difference between SEL’s version of the accounts and mine is that SEL has spent large sums on legal advice, most of which my Office has judged inappropriate to be passed onto the consumer.

#### SLIDE 13

According to the 2016 Law, there is a duty on SEL, the regulated supplier, to provide information requested by my Office in order to enable me to carry out my duties. However, due to persistent non-compliance, SEL has forced my Office to issue section 5 Notices, according to the 2016 Law, requiring SEL to provide information and/or documents. Even then, some information remains outstanding and the relevant authorities have been informed. The 2016 Law does not require my Office to provide information to SEL except under specific circumstances. When SEL has requested information I believe my Office has either provided it or explained why it has not been provided.

#### SLIDE 18

*“June 2020 - The situation up North develops”.*

This is presented in a way that implies SEL was a by-stander as events unrolled. In my view this interpretation is inaccurate and misleading. I believe the “situation” was caused by SEL’s policies and a lack of engagement with a customer. As a result my Office has not allowed the associated legal costs to be passed onto customers through the electricity tariff.

#### SLIDE 32

SEL claims my Office has stated that if there is no legislation on Sark requiring the particular spend then it cannot come out of SEL revenues. I do not recognise this statement and it is incorrect.

On the subject of environmental damage at the power station site, SEL has complained that my Office did not budget for this in 2021. Once again, Mr Witney-Price appears to have overlooked that, in his consultation response to the Variation in November 2020, he wrote “*I propose a contingency of £90,000 be accrued over the next 11 years STARTING IN JANUARY 2022*” i.e. after the Price Control Order had expired.

Mr Witney-Price complains that he has been told to pay “personally” for legal fees. I have set out in detail for SEL where I believe that the large legal costs incurred by the company should be paid by shareholders and a sum for ‘reasonable’ legal costs may be passed on through the tariff, whether they are used or not. Mr Witney-Price stated on 15th October 2020 that the level of allowance under the PCO for legal advice was “eminently sensible”. Insurance allowances were made in the services budget under the PCO. The large discounts to heavy electricity users were not proposed by SEL until after the Variation had been



published, so it would have been impossible for me to include them. SEL's complaints are unfounded.

SLIDE 60

*"I have a grid! I have generators! I have a plan, and the funds, to implement upgrades to the above ground equipment!"*

SEL's grid is, in some respects at least, unfit for purpose, as advised by two independent reports, EIS and energypeople, and accepted by Mr Witney-Price after the publication of the EIS report. SEL's generators were earmarked by SEL for urgent replacement in 2020. On 10th May 2022 Mr Witney-Price wrote to Conseillers stating *"the engines are old and well past their prime, every hour they run risks a significant failure and leaves us at risk of extended shutdowns and conceivably with no power at all"*.

My Office has requested a detailed plan from SEL, without success. When, in May of this year, Mr Witney-Price suggested to Conseillers that he could provide electricity for under 40p per unit, my Office asked for this claim to be justified. On 27 May I wrote to Conseillers and SEL "The fact that SEL appears to have no costed financial model of its "smarter" solution suggests that these assertions are not yet based on a robust assessment". SEL's silence on the matter I take as a tacit admission that it had not carried out the necessary financial modelling before making that statement. Mr Witney-Price has never provided my Office with a detailed business plan along with a detailed and costed capital expenditure plan, even though this has been requested many times over the last couple of years.

SLIDE 64

*"My social commitment to Sark cannot be questioned!"*

SEL's customers in their responses to the recent draft Determination, which have been posted on my Office's website, have clearly set out their worries concerning security of supply, safety of SEL's equipment and a number of other matters.

*"My financial commitment to Sark cannot be challenged!"*

As stated above, this has not been substantiated and Mr Witney-Price has given a long list of reasons over the last two and a half years of why he has failed to invest, despite declaring his intention to do so. These include:

- inability to progress plans due to covid and lack of qualified personnel (though I note two other generating systems were installed during this time), -
- lack of wayleaves,
- no faith in the regulatory regime,
- capital expenditure has to be financed initially by the company and repaid over the life of the asset rather than receiving the money in advance under a "save to spend" system,



- SEL's claimed losses are higher than its depreciation figures,
- lack of energy policy from Chief Pleas,
- plans on hold due to potential purchase of SEL by Chief Pleas, and
- no confidence that any investment will be repaid.

Mr Witney-Price has taken steps to remove from SEL the necessity of making audited accounts, the most recent I have are dated 2016. This makes his operations more opaque and challenging his statements more difficult. In the meantime, SEL has advised that my Office is unable to rely on SEL's management accounts.

I trust Conseillers will agree that this is not the first time Mr Witney-Price has made misleading statements about my Office's activities. Alan Witney-Price's earlier presentation to customers, of 2nd July 2020, also contained inaccuracies but, again, I only received a copy after the event. My subsequent corrections were ignored. My Office did not receive a copy of this recent presentation until 28th September.

Please do not hesitate to contact me directly if you require any clarification or further information.

Anthony White  
Commissioner

3<sup>rd</sup> October 2022