



The Government of Sark

SUSTAINABLE REASONABLY PRICED ELECTRICITY POLICY DEVELOPMENT TEAM

Background Information for Introduction of Control of Electricity Prices

(Sark) Law 2016 (Sept 2016)

Government Policy	
Securing Sark's Future Policy January 2014 adopted by Chief Pleas. Key enabler to delivering the policy is Sustainable Affordable Energy and Enhanced Broadband (later revised to Sustainable Reasonably Priced Electricity and Broadband).	
History of Sark Electricity Supply	
May 1948	Mr M Robson, chief engineer in Herm, having reached an agreement with the Dame of Sark was invited to present a report to Chief Pleas for approval to establish Robson Electric Supply Company (see Chief Pleas minutes May 1948).
Feb 1949	Mr M Robson requested some form of legal agreement between himself and Chief Pleas. This request was declined (see Chief Pleas minutes Feb 1949).
Dec 1949	First customers connected. By the end of 1949 there were 55 customers. Power was generated using a 240 volt direct current (DC) system.
1960	System was converted to alternating current (AC).
1969	Electricity supply company was purchased by Tim Gordon-Brown and renamed "The Sark Electricity Supply Company" (SEL) with a lease on the Power Station land 1971 to 2031. NB. Power Station is located on Barclay owned land, it has 15 years to expiry.
2010	David Gordon-Brown (DGB) and his brothers inherited SEL on the death of their father. Unit price 40 pence.
As at 2015	Electricity is used for lighting, heating, cooking, washing and drying. Approximately forty individuals also rely on electricity to charge medical equipment e.g. Beds, wheelchairs, mobility scooters, bicycles etc. Water is also pumped from boreholes and requires UV filters to ensure that it is potable. There is no mains water in Sark.
The need for change	
July 2010	General Purposes and Advisory Committee (GP&A) identify the need to seek more formal regulation of electricity prices. Some work done on draft legislation. Due to contentious nature of regulation, GP&A advised to try an alternative approach i.e. by negotiation.
July 2010	

Oct 2010	Chief Pleas authorises further discussions to introduce regulation (see item 28 Chief Pleas' minutes Oct 2010).
Oct to Dec 2012	Island wide survey, conducted by MOJ on behalf of Chief Pleas, identified that the cost of electricity was a major factor in preventing economic development (see resulting Vision for Sark document www.gov.sark.gg).
Mar 2013	Vision for Sark developed and published using results of survey which highlighted the cost of electricity as a major concern to residents and businesses.
Oct 2013	Economic Development Workshops, organised by MOJ on behalf of Chief Pleas, for the public, identified the problem of cost of electricity on businesses as well as individuals.
Discussions and correspondence with current supplier SEL	
Jan 2012 to Jan 2015	In total 12 meetings held between General Purposes & Advisory Committee and SEL to try to ascertain the following central points: a) What is the cost of production? b) What would be a reasonable return? c) Why is it, when cost of oil goes down there is no corresponding price reduction? N.B. Minutes were taken at all meetings agreed by all parties and confidentiality maintained at the request of SEL.
June 2012	J Curran, Guernsey Office of Utility Regulation (OUR) appointed to ascertain whether SEL's electricity prices are fair and reasonable. J Curran concluded that he was unable to confirm that SEL's tariffs were fair and reasonable (see letter dated June 2012).
2012 to 2013	Following frustration at attempts to find a way to negotiate regulatory agreement as Regulation Project was drafted. Following criticism from SEL's lawyers GP&A referred to MOJ for advice from OFCOM. This was at best inconclusive (one phone call from someone who appeared not to have taken the trouble to read the briefing documents prepared and sent to him) (see minutes of meeting held 16 th June 2014).
2013	Discussions with DGB continue about the future supply and possible solutions including purchase of assets and/or company. Derek Lickorish appointed GP&A's technical expert advisor.
March 2014	KJ met with Judge D Brunning regarding his role as mediator between DGB and GP&A, as requested by DGB. Mediation failed to produce any conclusion that could be acceptable to the government representing the public interest.
Oct 2014	DGB refused to re-connect the electricity supply to the Old Island Stores (known as the Old Bakery) for Ms. J. & Ms. N. Baker, who were interested in taking it over, unless he was paid the £20,000 outstanding for electricity from previous customer.
2014 to 2015	DGB agrees cable from Guernsey would be the best solution but SEL would be unable to raise capital investment required. GP&A investigate with Guernsey Electric (GEL) possibility of cable option and managing supply for Sark Government.
Jan 2015	This piece of work transferred to Policy and Performance and Committee in January 2015 (see Transfer of Functions Ordinance 2015). The Sustainable, Reasonably Priced Electricity Policy Development Team (PDT) was then set up under the new committee arrangements.

Feb 2015	Letter from SEL to customers announcing a public meeting on Monday 23 rd March 2015.
Feb 2015	Freedom of Information (FOI) request made to MOJ requesting information relating to advice provided on draft proposed legislation to regulate the provision of electricity on Sark. The FOI Commissioner concluded that the requested information was exempt from disclosure on the basis of section 27(1)(a).
25 th Mar 2015	Resident's meeting outlining cable option and buy-out plans, organised by Sustainable Electricity PDT that outlined the possible strategy to deliver Reasonably Priced Sustainable Electricity (and Broadband) in accordance with Government's priority.
April 2015	Letter from SEL to customers with bills announcing new unit price of 58 pence .
Mar to Jun 2015	Heads of Terms drafted by Government's Law Officers proposed to negotiate a buy-out but PDT were unable to recommend to Chief Pleas DGB's alterations to the agreement. This was based on advice from St James Chambers Director of Commercial Law. In the absence of any realistic possibility of a negotiated agreement negotiations were paused and PDT returned to working on Regulation as the only viable option to achieve its priority.
July 2015	Press statements issued by team on 8 th and 21 st July concerning difficulties in reaching agreement with SEL.
Sept 2015	SEL hold meeting for Conseillers with 16 page handout read by their lawyer.
Oct 2015	Draft Control of Electricity Prices (Sark) Law 2015 approved by Chief Pleas for consultation. Public consultation commenced 30 th September and ended on 12 th November. Letters dated 25 th September, 16 th October, 16 th and 30 th Nov received from SEL's legal advisors. Responses made by PDT on 18 th Nov and 9 th Dec. Letter sent by Law Officers on 22 nd Jan 2016 answering detailed legal points.
Oct 2015	Letter from SEL to customers with bills asking why PDT is backtracking on their promise to provide electricity at 36p a unit.
Oct 2015	Letter to MOJ from Andrew Gordon-Brown (AGB) requesting a Royal Commission.
Nov 2015	Letter from MOJ to P&PC requesting further information on Governance. Explanatory Memorandum issued 6 th November in mailshot to all residents following comments received and consultation period extended to 30 th November to allow further responses. Press statement issued by team on 26 th November in response to SEL press release from SEL on 20 th November.
Jan 2016	Verbal update by PDT at Christmas Meeting of Chief Pleas. See Hansard
Jan 2016	Letter from AGB to SEL customers announcing his return to Canada.
Feb 2016	Letter from P&PC in reply to AGB regarding Governance and complaints procedure.
Easter 2016	Consultation results published and identified the need for specialist technical advice in drafting the projet to establish an Independent Office of Commissioner. Whilst there was broad acceptance of the draft price control legislation there was concern about the point that politicians should not set prices and that for any legislation to be fit for purpose it had to be fair and reasonable to both the supplier and customers.

April 2016	Letter from SEL to customers advising that bills will be changing from quarterly to monthly billing, and that the PDT had cost SEL £150K in legal costs.
May 2016	BW Energy Limited appointed by Chief Pleas at their extraordinary meeting held on 17 th May to provide specialist technical advice in drafting the Law (see item 3 “Finalising Electricity Price Control”).
June 2016	P&PC letter of 21 st to AGB regarding Governance and complaints procedure, confirming reply had already been provided and copied to MOJ.
July 2016	Letter from SEL to customers with bills blaming reduced income for an increase in unit price to 70p from 1st December 2016 .
July 2016	Mid-summer meeting of Chief Pleas item 8 “Securing Sark’s Future” update on progress of BW Energy work on the draft projet.
Sept 2016	Copy of Draft “Control of Electricity Prices Law (Sark), 2016” delivered to DGB at the Power Station on 14 th September. Email also sent on 19 th September. Mailshot sent to all Sark residents on 28 th September enclosing explanatory memorandum, and announcing residents meeting and that consultation period ends 21 st October.
Oct 2016	Draft “Control of Electricity Prices (Sark) Law 2016” brought before Chief Pleas for information along with public Consultation (see agenda item 23). Residents meeting held on 12 th October 2016, and attended by DGB. Advice received from the President of Chief Pleas concerning the deadline before meetings and consultation period end date amended to 19 th October. SEL had been given a total of 5 weeks to respond at this point.
Nov 2016	Draft “Control of Electricity Prices (Sark) Law, 2016” updated following 2 letters received from SEL’s lawyers; the second identified issues already addressed by the team, in conjunction with advice received from the Law Officers, and laid before an extraordinary meeting of Chief Pleas for approval on 10 th November. Chief Pleas approved the Law unanimously. Humble petition submitted to the Privy Council. Election process starts on 11 th November and Chief Pleas enters into baulk and cannot meet.
Into 2017	<p>This background note is for the MOJ Crown Dependencies Team to use as they see fit in advising Ministers ready for Privy Council early in 2017. The team think it is likely that the projet will be petitioned which could delay the process. Assuming this is the case and also considering the time needed for a Commissioner to be appointed and conduct an assessment it is likely that the first Determination made public will be Autumn 2017. Chief Pleas only has the power to annul the Price Control Order (PCO) sending it back to the Commissioner to conduct further work. On publicising the PCO the price per unit is binding from that date, the supplier may appeal through the court system but the PCO stands until such time as the court finds otherwise.</p> <p>Chief Pleas also has Emergency Powers (Civil Contingencies (Bailiwick of Guernsey) Law, 2012) if the supply of Electricity is significantly at risk or fails. In the event these Powers come into operation GEL maybe instructed by P&P to step in to return the system to full operation and are remunerated for this service.</p>