



# Sark Electricity Ltd

For Public Release  
Chief Secretary Mrs Z Bougourd  
Sark Chief Pleas  
Committee Office  
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23rd June 2022

## ACTION REQUIRED TO PREVENT THE DISCONNECTION OF SUPPLY

Dear Mrs Bougourd

I have addressed this to you in your capacity as Chief Secretary and I would ask that you direct its contents to the appropriate Committees / Committee.

On 21<sup>st</sup> June The Policy & Finance Committee (P&F) Price Commissioner Dr Tony White (OPC) issued a letter containing a number of significant inaccuracies. I am responding to the bulk of these inaccuracies directly to The OPC and that is not the purpose of this letter.

One of Dr Whites comments feeds into the narrative promoted by P&F that the Board of SEL has in some way been delinquent in respect of its commitments to undertaking renewal works and further in relation to securing the safety and supply of the grid. Given that he is copied into the majority of correspondence between us, it should be obvious to The OPC that the delays for works rest entirely with P&F.

### BACKGROUND

86 short days after I purchased Sark Electricity Limited (SEL) A resident wrote and notified me that he **had already** installed an off grid solution and wanted all SEL related equipment removed from his land. We were advised by neighbours at the time that the resident intended to sell them his electricity. The ultimate reality of the that situation was that 19 residents were forcibly removed from the SEL grid due to inaction by P&F and they remain on a temporary, and in our mind questionable supply model managed by Sark's Government for approaching two years.

I am regularly told that the affected residents are not too unhappy as some of them have not been sent bills by Chief Pleas and are drawing power for free. *I have not confirmed if this is true.*

### RESULT

In 3 short months of taking ownership, it became clear to me as the new owner that relying on a handshake, as the previous owner had done, was not an effective long term strategy. Grid security for the safety of island wide supply was crucial for long term stability and would be vital to enable SEL to push forward with its transformation plan to a decentralised grid and to undertake remedial works such as those required across the Coupe.

It is the view of The OPC, and clearly articulated in his correspondence of the 21<sup>st</sup> June, that your next investor will not require the 2020 Law or Wayleaves to be signed before they spend millions of pounds. That this investor will lay cables and build equipment **without formal permission** from the landowner. Respectfully, this in my opinion highlights a significant naivety that SEL has come to expect from P&F and The OPC. Common sense, trespass, Company Law and the Directors Fiduciary duties will demand permission be obtained first.

How a regulator can maintain the position that SEL **does not need** to secure legal rights before it installs equipment is a complete mystery to me.

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## **SEL's RESPONSE**

Grid safety and security of supply for **all** residents is a key concern for SEL. To discover within months of arriving on Sark, that landowners could, and would, disconnect their neighbours from the grid required a substantive response from SEL and a formal long term solution to be implemented. This is self-evident to everyone, except P&F and Price Commissioner.

Within 23 days of the problem being identified we met with Chief Pleas with a proposal to solve it.

- 14<sup>th</sup> July 2020 (23 elapsed days after formal permissions became fundamental) – SEL met with P&F and sought permission to make its grid necessary and permanent. P&F stated within that meeting it would prefer instead to implement The Electricity (Sark) Law 2020. They had seen this issue coming for some time and had prepared accordingly.

### **This formal commitment has never been progressed.**

- 19<sup>th</sup> October 2020 (120 elapsed days) – SEL, SEL's Advocates, P&F and The Ministry of Justice (MoJ) meet to resolve delays in implementing the legislation necessary to retain connection for these residents and to permit the progress of SEL's transformation plan.

In this meeting P&F committed, once again, that it would progress The Electricity (Sark) Law 2020 enabling our investment to move ahead and securing the ongoing connection of the 19 residents up North.

*Given this is going to be released to the public I want to be clear, that retaining the connection up North would not have denied the resident his desire to remove SEL equipment from his land. That was never SEL's intent or P&F's commitment.*

### **This formal commitment has never been progressed.**

- 22<sup>nd</sup> June 2021 (354 elapsed days) – The relationship between SEL & P&F collapses:
  - Losses at SEL for 2020 of -£75,000;
  - the OPC's continued inclusion of own generators units into the unit price calculation despite those losses;
  - inaction by P&F on key legislation to facilitate investment and provide grid security;
  - refusal by P&F to engage on a new Sark Health & Safety Policy;
  - refusal by Sark's Government to work with SEL to create a formal Sark Energy Policy.

P&F declare that it intends to seize SEL, by force if necessary under compulsory purchase.

As a result of this stated intention, SEL seeks a commitment, through its advocates due to the nature of the negotiations, from P&F to work together to progress key works whilst negotiations take place. Works such as The Coupe cable, engine, transformer and switchgear replacement.

### **This formal request has been entirely ignored.**

- 15<sup>th</sup> November 2021 (469 elapsed days) – In response to The EIS report SEL submitted a response within which we detailed where the works proposed by EIS were in line with the works we had been trying to achieve since purchasing the company. Works that were being delayed by P&F.

SEL proposed, given that P&F had failed entirely to meet its previous commitments or simply ignored our correspondence regards permissions to proceed, that a working

group was created within the Policy Development Group (PDG) to progress key matters that demand swift action and responses from Sark's Government.

On 7<sup>th</sup> December 2021 we were formally advised by the President of The PDG that this engagement would be undertaken through P&F as the lead committee.

**No further action has taken place from the PDG or P&F.**

- 19<sup>th</sup> November 2021 (473 elapsed days) – In light of the EIS report and given that 15 months had passed since P&F first committed to provide the required legislative framework to progress key works, SEL submitted an application for works to be undertaken at the Coupe and, in the absence of the 2020 law we requested a wayleave, using the template created by The Law Officers for Chief Pleas, for these particular works.

We also asked for assurances from the Douzaine that they were comfortable with the stability of The Coupe and that works could progress safely.

A meeting in respect of our application for works and the wayleave was initially scheduled for 2<sup>nd</sup> December 2021. However, this was subsequently cancelled.

**We are still waiting for these permission to be provided and the wayleave to be issued.**

- 20<sup>th</sup> May 2022 (661 elapsed days) – SEL seek an urgent meeting with P&F to discuss urgent matters such as the coupe cable.

**This meeting is refused by P&F.**

**CONCLUSION**

During the 661 days of zero engagement from Sark's Government on matters such as;

- Energy Policy
- Land rights
- Works permissions
- Health and Safety
- Equipment replacement

It has been the policy of P&F and The OPC to attack SEL, and to penalise it financially due to 'SEL's' inaction on these matters.

These attacks are scurrilous and entirely without merit. In my opinion, both P&F and The OPC have repeatedly demonstrated a bias against SEL that is not supported by the facts on the ground.

Sark Electricity cannot operate in a vacuum and Chief Pleas cannot ignore its obligations.

It is now the 23<sup>rd</sup> June 2022 and 695 days, almost 2 years, have passed since P&F committed to provide the legislation to allow vital works on Sark, such as the coupe, to progress.

We have arranged meetings, submitted applications, engaged our advocates and begged for engagement from Sark's Electorate, P&F, Chief Pleas, The Guernsey Civil Contingencies Authority, His Excellency The Governor of Guernsey, The Ministry of Justice and The Private Secretary to Her Majesty The Queen.

We have been told that the legal costs incurred trying to force engagement by P&F on this issue are excessive, unnecessary and cannot be recovered. I agree that they *should have been* unnecessary, P&F has however made them entirely necessary.

Throughout this period the Board has chosen to continue to supply power across a grid that has no security of location and has a significant need for replacement in some areas. The

legal risk for the Directors and owners of SEL has been significant; but we have balanced that risk against the vital need to continue to supply power, and water, to Sark's residents.

The risks presented by P&F's abject failure to act and by those ultimately responsible for its oversight are simply too great to ignore any longer. In light of the commissioners' latest unfounded accusations against SEL and Chief Pleas continuing refusal to correct this narrative and acknowledge its own failures in this regard, the board is no longer willing to accept this risk on behalf of Chief Pleas and the residents of Sark.

If SEL does not receive the necessary permissions, for which we have now been waiting for almost two years, to undertake these key works to install an under road cable across The Coupe, at a schedule to be agreed between SEL, The Douzaine and Little Sark residents, within 14 days (7<sup>th</sup> July 2022) then we will be left with no choice but to disconnect the ageing cable to Little Sark in the interest of public safety pending these necessary permissions.

This permission to include a formal wayleave between Chief Pleas and SEL.

We do not wish to disconnect Little Sark from the grid and if formal signed permissions are finally provided, we will maintain connectivity throughout the works process. The company ultimately requires comfort that the risk is being managed.

SEL remains committed to grid security and safety. It is regrettable that P&F and its Price Commissioner have in my opinion chosen to play politics with matters of such significant consequence.

The simple fact is that **if** an accident were to take place, there would be no acknowledgment of what SEL has been trying to achieve by maintaining supply while we wait for these necessary permissions. I will be told when I stand in front of the Judge that I should have just switched it off.

Regards

Alan Witney-Price  
Managing Director – Sark Electricity Limited

c.c. All Conseillers, The Seigneur, Elaine Cobb, The CCA, Governor of Guernsey, The MoJ and The OPC.