



E1490G

Cost Pass-through for Guernsey Electricity Limited 2020  
(Guernsey)

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Statutory Notice of Proposed Decision

Document No: CICRA 20 /08

11 March 2020

Guernsey Competition and Regulatory Authority  
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# 1. EXECUTIVE SUMMARY

The Guernsey Competition and Regulatory Authority (**GCRA**) issued a non-statutory draft decision CICRA 20/04 (the **Draft Decision**) on 14 February 2020 regarding a proposed unit tariff increase of 4.8% for Guernsey Electricity Limited (**GEL**). The Draft Decision is available at [www.cicra.gg](http://www.cicra.gg).

This document constitutes the statutory notice of a proposed decision of the GCRA with regard to this matter.

GCRA intends to allow GEL a 4.8% unit tariff increase, to be in place for 3 years. This tariff rise is to allow GEL to recover historic uncontrollable costs of £7.6m related to importation and generation of electricity, which are primarily related to the price of oil and exchange rate movements. The period to which the costs to be recovered relate is April 2019 to March 2020.

## 2. STRUCTURE OF THIS DOCUMENT

This document constitutes statutory notice of a Proposed Decision. The document sets out the intentions of the GCRA to change the unit tariffs which GEL may charge. The document contains a statement of what the GCRA proposes to allow GEL with respect to recovery of uncontrollable costs and the consequent unit tariff increase.

The document is structured as follows:

Section 3	Outlines the legal framework
Section 4	Sets out the Statutory Notice of a Proposed Decision
Section 5	Sets out the process being followed and the timetable for issuance of statutory notice of a final decision

Subsequent to closure of the consultation period detailed below, and having considered any responses received, the GCRA expects to issue a Statutory Notice of a Final Decision which will either confirm the Proposed Decision contained in this document or detail any amendment.

Respondents are requested to comment on the Proposed Decision. All comments should be submitted before 5.00pm on 17 March 2020 to:

Guernsey Competition and Regulatory Authority  
Suite 4, 1st Floor Plaiderie Chambers  
La Plaiderie  
St Peter Port  
Guernsey, GY1 1WG  
Email: [info@cicra.gg](mailto:info@cicra.gg)

All comments should be clearly marked '**Comments on E1490G Proposed Decision – Cost Pass-through for Uncontrollable Costs of Guernsey Electricity Limited 2020**'.

In line with CICRA's consultation policy, CICRA intends to make responses to the Proposed Decision available on the CICRA website, the combined website of the GCRA and JCRA. Any material that is confidential should be put in a separate annex and clearly marked as such so that it may be kept confidential. CICRA regrets that it is not in a position to respond individually to the responses to this consultation.

## 3. LEGISLATIVE BACKGROUND

### Current Licensing Regime

The States of Guernsey has issued a number of States Directions in relation to the licensing of electricity activities in Guernsey. In accordance with those Directions the GCRA (formerly the Director General) issued the first licences for electricity generation, conveyance and supply to the incumbent electricity company – GEL - on 1st February 2002.

### Legal Background

Under the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 (the **Utilities Law**), the objectives that the GCRA has a duty to promote (and, where they conflict, to balance) must be achieved in a way that gives equal regard to the interests of the residents of all islands of the Bailiwick. They include protecting the interests of consumers and other users in Guernsey in respect of the prices charged for, and the quality, service levels, permanence and variety of, utility services. In order to ensure the permanence of electricity supplies, the GCRA must have regard to allowing GEL to raise revenues to cover the efficient cost for generation, conveyance and supply of electricity.

Detailed provision for the regulation of electricity in Guernsey is contained in The Electricity (Guernsey) Law 2001 (the **Electricity Law**). Section 5 provides that the GCRA may include in licences such conditions as appear to the GCRA to be appropriate having regard to the nature of the application for the licence, the objectives set out in the Utilities Law, and the enforcement of the Utilities Law and the Electricity Law.

The Electricity Law specifically provides that such conditions can include (but are not limited to):

- Conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market.

These provisions allow the Authority to regulate unit tariffs.

### Regulatory Framework

GEL is dominant in generation, conveyance and supply of electricity.

The licence of GEL includes conditions in respect of Price Regulated Services (licence condition 20). Condition 20.2 of the Licence provides that:

*“The Director General [now the GCRA] may determine the maximum level of charges the Licensee may apply within a relevant market in which the Licensee has been found to be dominant. A determination may;*

*(a) provide for the overall limit to apply to such charges;*

*(b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or*

*(c) provide for different limits to apply in relation to different periods of time falling within the periods to which any determination applies.”*

This condition allows the GCRA to regulate the prices that GEL charges for electricity it supplies in a way and for a time that it deems appropriate, provided GEL has a dominant position in the relevant market.

As set out in CICRA 20/04, Guernsey's retail electricity market possesses a monopolist/dominant operator that also has a dominant position through the electricity supply chain. This position of economic strength is unlikely to change in the near to medium future.

## 4. COST PASS-THROUGH - ASSESSMENT

The GCRA issued a non-statutory final decision CICRA 20/04 (the **Draft Decision**) on 14 February 2020 regarding a proposed unit tariff increase of 4.8% for Guernsey Electricity Limited (**GEL**). One response to this consultation was received and agrees with the decision.

The Authority wishes to emphasise that it has not undertaken a review of GEL's overall costs as part of a more comprehensive price control review. This would involve a detailed assessment of GEL's overall revenue and costs, rather than a narrower consideration of GEL's costs as part of a passthrough application. A wider assessment is contingent on a States energy policy which would clarify roles within a revised energy policy framework. In the interim, in the case of a cost passthrough assessment, it is normal to recognise a distinction between those costs over which a utility has a reasonable degree of control, and those over which it does not. In the case of GEL, the latter category would include changes in fuel costs that are the result of changes in world prices of oil and its derivatives, and also the cost of electricity purchases from EDF (where, although GEL might be in a position to negotiate slightly better or worse terms, it cannot reasonably be expected to be able to avoid major swings in continental market prices for bulk electricity). As such the consideration of the case for an uplift in prices at this time has been confined solely to this specific category of costs.

The Draft Decision proposed a commencement date of 1 July 2020 premised on a more extensive consultation process. However, given responses the timescale for coming to a decision can be shortened and given the financial situation GEL faces there is merit in doing so.

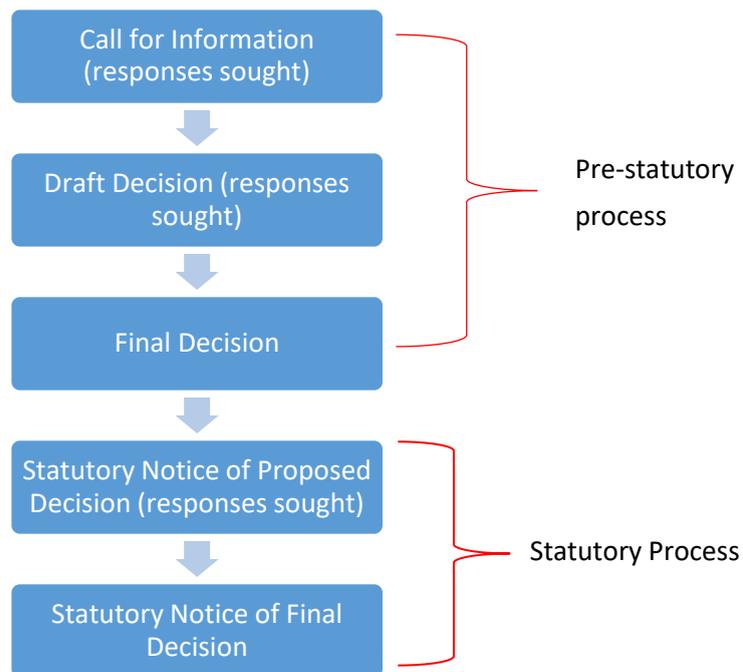
## 5. PROPOSED DECISION

The GCRA intends to allow the maximum unit tariffs charged by GEL to be increased by 4.8%, the increase to remain in effect for 3 years and the precise date will depend on the length of time of the statutory process. The exact date of commencement will depend on the length of time to conclude the statutory phase of the process. This is in order to allow GEL to recover uncontrollable cost increases of £7.6m related to electricity generation and importation during its financial year 2019/20. For the avoidance of doubt, this applies to tariffs charged by GEL and not any tariffs paid by GEL to other parties.

The GCRA now invites comments on its Proposed Decision.

## 6. NEXT STEPS

CICRA has recently introduced a revised process for consultations. The Information Notice, CICRA 18/29 “Regulatory Consultation Process” published in July 2018 outlines the process to be undertaken before carrying out certain regulatory functions in accordance with the relevant statutory process. This process is set out below in diagrammatical form:



The pre-statutory process consists of a Call for Information, a Draft Decision and a Final Decision. Given the limited extent of responses the decision has been made to move from the Draft Decision stage to the Statutory Notice stage of the decision process.

In order to change the maximum unit tariffs which GEL may charge, the statutory process will now be followed.<sup>1</sup>

This is the Statutory Notice of Proposed Decision of the GCRA. If representations from interested parties are received before 5:00pm on 17 March 2020 regarding the Proposed Decision, the GCRA will consider them and subsequently make a further determination. If no responses are received, a Statutory Notice of a Final Decision will be issued shortly thereafter. At such time as any statutory final decision takes effect it becomes binding on all parties.

**END**

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<sup>1</sup> Sections 5(4) and 5(5) of The Electricity (Guernsey) Law 2001