

IN THE PROPERTY CHAMBER

RESIDENTIAL PROPERTY

BETWEEN:

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF WANDSWORTH

Applicant

- and -

THE LEASEHOLD OWNERS OF 13,966 PROPERTIES

Respondents

WITNESS STATEMENT OF JAMILA ATTA

1. My name is Jamila Atta. I am employed by the Applicant, the London Borough of Wandsworth. My business address is the Town Hall, Wandsworth High Street, Wandsworth, London, SW18 2PU
2. I am the Energy and Sustainability Manager within the Property Services Team which is part of the Applicant's Housing and Regeneration Directorate. I report to Adele Casey who is the Head of the Facilities Management. My responsibilities include managing the Applicant's energy contracts. I am authorised to make this witness statement on behalf of the Applicant.
3. There is now produced and shown to me marked **JA1** a paginated bundle of documents to which I shall refer in this witness statement. This statement has been prepared based on information provided by email correspondence and over the telephone. I have read the contents, made necessary amendments and confirm the content is accurate.
4. I make this witness statement in support of the Applicant's application for a further dispensation with consultation requirements in relation to electricity and gas contracts which the Applicant wishes to place. The applications relating to gas are for dispensation of the consultation requirements contained in Section 20 of the Landlord and Tenant Act 1985. In the context of the Respondents' properties, gas is used for communal heating and hot water supplies. The application in respect of electricity is also for dispensation of the consultation requirements in Section 20 of the Landlord and Tenant Act 1985, in relation to electricity supplied as part of service charges and re-charged to leaseholders. The basis for the application is substantially the same as those that have been made previously by the Applicant.
5. The Applicant has made five previous applications to the Tribunal for dispensation relating to these contracts as follows:-
 - Application dated 16th March 2009 (for gas) decision 2nd June 2009
 - Application dated 9th February 2010 (for electricity) decision 16th June 2010
 - Application dated 31st May 2012 (for electricity and gas) decision 22nd August 2012
 - Application dated 7th September 2016 (for electricity and gas) decision 7th September 2016

- Application dated 1st April 2020 (for electricity and gas) decision 30th July 2020
6. Having considered reasonableness afresh on every occasion, the Tribunal granted the Applicant dispensation in each case and the Applicant entered into a Framework Agreement for the supply of gas and electricity as a result of the same. Copies of the decisions in these applications under references LON/00BJ/LDC/2009-2012, LON/00BJ/LDC/2010/0017, LON/00BJ/LDC/2012/0061 LON/00BJ/LDC/2016/0051 and LON/00AH/LVT/2020/001 are exhibited at **pages 1 to 42 of “JA1”**.
 7. The 1985 Act requires landlords to consult with leaseholders before entering into a qualifying long-term agreement of more than 12 months. If the consultation requirements are not satisfied, then the landlord’s ability to recover contributions from the leaseholders will be restricted unless the Tribunal makes an order dispensing with the consultation requirements.
 8. Fuel contracts fall under the definition of a “*qualifying long term agreement*” within the 1985 Act where they exceed 1 year and the contribution from any one leaseholder might exceed £100 per year. As the Tribunal will be aware, given the increasing cost of energy, any contract into which the Applicant entered would exceed this threshold.
 9. In 2015, the Office of Government Commerce, (which later became part of the Efficiency and Reform Group within the Cabinet Office), recommended that all Public Sector bodies buy energy through a central purchasing body (CPB) which would offer a flexible, risk managed framework, managed by experts to improve the way the Public Sector purchases energy.
 10. The Applicant has selected LASER (owned by Kent County Council) as the preferred CPB for the 2024-28 contract. LASER work with over 200 public bodies in the UK, collectively purchasing on average £1.5 billion of gas, electricity and water annually on behalf of around 85,000 end users. As energy markets and customer requirements evolve, LASER continues to develop and introduce services that help the public sector to manage costs, reduce carbon and meet evolving legislative requirements. LASER provides the aggregated, flexible, and risk-managed approach recommended by Government, and expertise in energy-buying for local authorities.
 11. The current Framework Agreement for both the gas and electricity contracts expires on 30 September 2024 and must be renewed for the period from 1 October 2024 to 30 September 2028. As such, the Applicant is required to make a further application for dispensation from the requirements of Section 20 of the Landlord and Tenant Act 1985 (“the 1985 Act”). The renewal consists of an Access Agreement with the Central Purchasing Body and Call-Off contracts with the Suppliers. The Applicant has considered the costs incurred under LASER and remains firmly of the view that the purchasing power under the framework agreement provides the best value for the thousands of clients that the Applicant serves.
 12. Since the last contract renewal was agreed in 2020, wholesale utilities market prices have increased significantly. Prices have peaked over 150% higher than they were before 2020, with the combination of strong natural gas and carbon prices continuing to support these unprecedented increases. Whilst the short-term view from our analysis is for electricity and gas prices to continue softening in April 2023, a recent report from KPMG’s Chief Economist released a warning about energy costs remaining elevated for the next 5 to 10 years due to the added costs of transitioning to net zero. This will be due to factors such as grid balancing and storage risks, declining North Sea production, demand/competition from/with EU/China around

LNG and the continued reliance on Combined Cycle Gas Turbine / CCGT generation for UK's power.

13. Under the current contracts with the Applicant, LASER uses a "Purchase in Advance" model to procure gas and electricity meaning that energy is purchased in large blocks up to 12 months in advance; this increases certainty in energy pricing and reduces the risk and impact of recent extreme volatility of the energy markets on consumers. As a result of procuring energy through the Applicant's chosen framework, the Applicant expects to pay lower unit costs for gas and electricity than compared with national average energy costs.
14. Under the purchase in advance framework agreement, energy is bought over a period of time, before the start of the annual period. As such, the price is fixed for the year and not subject to percentage increases at minimal notice as applicable to the domestic market. The Applicant takes the view that price certainty is in the interests of all of the Respondents and is a significant factor in the reasonableness of the grant of dispensation.
15. To keep the forward purchasing window of aggregated quantities intact, participating organisations have been required to commit to the next four-year term, to enable energy to be procured into future years. The requirement to purchase aggregated volumes immediately, when the market is seen as offering value, means that it is not possible to comply with statutory requirements within the time scale. Accordingly, the applicant is making this application to the Tribunal to dispense with the consultation requirements in relation to particular energy contracts. The Tribunal has the power to dispense with all or any of the consultation requirements, if satisfied that it is reasonable to do so. The Applicant respectfully maintains that it remains reasonable to dispense with the consultation requirements under s.20.

Gas Supply for Communal Heating and Hot Water Supplies

15. There are 668 leaseholders in the London Borough of Wandsworth who are required to pay for the provision of heating and hot water from a communal boiler system. The cost of gas used by these bodies/parties forms part of the heating and hot water charge.
16. Procurement of the Applicant's gas supplies was assigned to Purchase In Advance flexible framework contracts on 1st October 2009. The current flexible supplier is Total Gas and Power who is also the proposed supplier from October 2024.

Electricity

17. There are 13,968 leaseholders in the London Borough of Wandsworth who are required to pay for the provision of electricity through their service charges.
18. Similar to the provision of gas, all electricity contracts aligned with the 1 October 2009 flexible framework entry date were assigned to Purchase in Advance agreements at that time. The current flexible supplier is NPower who it is proposed will continue to be the supplier from October 2024.

Performance

19. The Applicant has been a part of the framework agreement since 1 October 2009 and the agreement has been found to be very effective in mitigating the effects of a changeable energy market. Historically, price benchmarking has proved very difficult due to commercial confidentiality, but the table below demonstrates the contract performance against market average prices. While I am unable to comment as an independent expert in the field, I am of the view from my experience and the information set out, below, that the framework agreement

has been a significant benefit to persons in the Respondents' position. Further the dispensation with consultation requirements on such a huge scale has itself resulted in savings to tenants.

Electricity Prices

Period	Achieved Price (£/kWh)	Market Average (£/kWh)	Percentage Difference
Oct 21-Sep 22	14.9847	18.73259929	-20%
Oct 22-Sep 23	28.5106	54.86605505	-48%
Oct 23-Sep 24	29.7435	27.73107031	7%

In terms of electricity, over the past three years, on average, the pence per kWh unit cost secured under LASER's Purchase in Advance Price has been approximately 20% lower than the market average.

Gas Prices

Period	Achieved Price (£/kWh)	Market Average (£/kWh)	Percentage Difference
Oct 21-Sep 22	2.0719	5.427383388	-62%
Oct 22-Sep 23	8.6120	18.03816877	-52%
Oct 23-Sep 24	7.4316	8.412954327	-12%

When looking into gas prices, we see significant benefits through LASER's framework. Over the past three years, on average, the pence per kWh unit cost secured under LASER's Purchase in Advance Price has been approximately 42% lower than the market average.

20. Between 2020 – 2024 LASER's flexible frameworks have reduced the applicant's total energy spend by £5.3m per annum on an expenditure of approx. £7.8m for electricity and £3.9m for gas.

This confirms:

LASER's current flexible frameworks have achieved significant cost avoidance for London Borough of Wandsworth:	Avoided Cost £/pa
LASER's purchasing performance - the prices achieved by LASER since the commencement of the framework are lower than the average market prices over this period.	£4.8m
Lower Supplier Management Fees - reduced fees from your gas and electricity suppliers compared to buying as a stand-alone customer.	£387.2k
Shaping Benefits - aggregating the volumes of multiple customers flattens the overall usage profile, allowing our traders to purchase at a lower price.	£39.3k
Entire Market Pricing - when LASER submits a bid to buy a block of energy, our suppliers are compelled to put this bid into the open market. This means we receive the lowest price anyone in the entire market is prepared to offer.	£19.3k
Flexibility of Trading - our large energy purchase volumes mean we can buy larger blocks of energy over the market, which come at a discount to buying smaller blocks of energy.	£7.5k

Volume Tolerance - LASER's volume tolerances apply at the aggregated customer level (rather than individual customer level) minimising the risk of load variance penalties. As an example, no penalties were incurred for reduced usage during Covid.	£3.3k
Transparency of pricing – LASER validates supplier’s flexible prices and corrects any errors prior to opening bills being issued for each pricing period.	£72.6k

Consultation

22. The Applicant is aware that it is required to give notice of its intention to make such an application to the Tribunal, to affected leaseholders.
23. 13,968 leaseholders will be affected by this application, and the Applicant requests the consultation for the current application to be by way of a single page letter as the previous dispensation sought in 2020 which is sent to all leaseholders
 - setting out details of the application; and
 - informing them that a copy of the application with all the relevant documents is available on the Applicant’s website; and
 - informing the leaseholders that directions have been made by the Tribunal that have been published on the Applicant’s website; and
 - providing that any leaseholder may respond to the application with copies of their response also being sent to the Applicant; and
 - advising leaseholders that copies of the application documents can be provided to them on request either in electronic format or as hard copies; and
 - providing contact details (telephone and email) in the event that any leaseholder wishes to speak to an officer of the Applicant or make any comments.

In the event that the Tribunal continues its previously-approved practice and gives directions for the conduct of this application without the need for a hearing, I would respectfully request that the Applicant is given a period of not less than 21 days between the date of the directions order and the date for publication of details of the application and the directions on its website to ensure that there is sufficient time for the Applicant’s website providers to make the necessary arrangements.

27. Under the framework agreement with LASER for the pricing period 1 October 2020 to 30 September 2024, the average unit rate cost p/kWh for gas to the Applicant's entire estate is 4.8643 p/kWh. During this pricing period, the customer rebate is between 0.034 p/kWh and 0.085 p/kWh payable to the Applicant. In terms of the fee payable by the Applicant to LASER, this is either £139.52 or £239.67 per supply annually. These charges differ because different meter types/sizes have differing associated with their management. This includes standing charge and climate change levy (CCL).

The cost for electricity over the same pricing period -1 October 2020 to 30 September 2024- averages at 20.1924 p/kWh. During this pricing period, the customer rebate is between 0.085 and 0.115 p/kWh payable to the Applicant. In terms of the fee payable by the Applicant to LASER, this is between £71.71 and £576.55 per supply annually. These charges differ because

different meter types/sizes have differing associated with their management. This includes standing charge and climate change levy (CCL).

28. The average unit rate costs set out above have been provided by LASER's energy bureau services. The customer rebate payable to the Applicant have been obtained from yearly pricing documents sent to the Applicant by LASER during the start of each contractual year, i.e. October of each year. The fee payable by the applicant is obtained from the access agreement set between the Applicant and LASER during the 2020 – 2024 pricing period. For reasons of confidentiality and data protection, copies of the spreadsheets are not exhibited to this witness statement but will be made available for the Tribunal's inspection, if required. The Tribunal may, in any event, consider that the relative cost of energy supply to non-comparable service-users is not relevant to the exercise of its discretion in this application.
29. The fees paid by the Applicant or payments received by the Applicant in respect of the energy supplies are as in paragraphs 27 and 28.
30. The London Public Sector Centre of Expertise, the London Energy Project ("LEP"), which was a public sector shared intelligent service of authorities that manage energy category development and supplier relationships previously carried out a value for money assessment of LASER in a report prepared for the authorities in December 2015. In this report LASER is rated as "good" for electricity and "effective" for gas prices. One of the report's key findings is that *"aggregated, flexible, risk managed (Flex) procurement was effective in controlling commodity costs and continues to be the most appropriate price risk management strategy currently available"*. The LEP also went on to state that fixed term, fixed price contracts (which were used by the Applicant prior to entering into the purchase in advance flexible framework with LASER) were not effective in controlling costs and present a medium financial risk.

Statement of Truth

I believe that the facts stated in this Witness Statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed j ' Ń ģ' ê '

Dated 12th June 2024

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EXHIBIT JA1 TO WITNESS STATEMENT OF JAMILA ATTA
