

### **WITNESS STATEMENT OF KEVIN JACKSON**

1. My full name is Kevin Michael Jackson. I am employed by the Inspired Plc who are the retained energy consultants to LiveWest. Our business address is Unit 29, Progress Business Park, Orders Ln, Kirkham, Preston PR4 2TZ.
2. I am employed as the Head of Social Value in the Regulated Services Team which is part of Inspired Energy Solutions. I report to Georgina Penfold who is the Director of Regulated Services. My responsibilities include supporting clients in the procurement of energy and achieving compliance with regulation and guidance. I am authorised to make this witness statement on behalf of LiveWest.
3. I am an engineer by profession and have been involved in the procurement of energy both as an end user and as a consultant since 1989 making me experienced and knowledgeable in the field.
4. There is now produced and shown to me marked "LiveWest Application for Dispensation May 2022" a document to which I shall refer in this witness statement. This statement has been prepared, based on information provided by email and over the telephone.
5. I make this witness statement in support of the Applicant's application to dispense with the consultation requirements in relation to electricity and gas contracts which LiveWest 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. Gas is used for communal heating and hot water supplies. The application in respect of electricity is 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.
6. LiveWest has not made previous applications to the Tribunal for dispensation relating to these contracts but now believes it is appropriate to do so in light of recent market events to introduce long term risk management and price control for tenants.
7. The current Agreement for both the gas and electricity contracts expires on 30<sup>th</sup> September 2022 and should be renewed for the period from 1<sup>st</sup> October 2022 to 30<sup>th</sup> September 2026. As such, LiveWest is required to make an 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
8. 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.

9. Utility 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 annum.
10. Recent energy markets have been at an all-time high as is well documented in the news. They are also both complex and volatile, making them liable to sudden price fluctuations, which are often linked to real or perceived threats to supply and demand that can significantly change prices, on a daily basis. The majority of the energy price payable used to be market related, although Government taxes and pass through charges have been increasingly significant in recent years. The key variant and influencing factor is the wholesale price. Because of its volatility, the energy market cannot be index linked and the true cost savings accrue directly from the lower absolute outlay. Given the nature of the energy market and the influencing factors such as the increasing move to renewables, carbon reduction measures, taxation and increased reliance on energy imports, it is very unlikely that the opportunity for any absolute cost reduction will occur.
11. It is well recognised in energy procurement circles that the longer the procurement window the likelihood of better procurement outcomes. A three-year procurement window is expected to outperform a one year procurement window by 10%-15%.
12. Longer term contract greater than 1 year also have a number of other benefits which provide better outcomes for the tenants
  - Enhanced risk management to avoid price peaks and seek out price dips
  - Lower administration costs
  - Improved customers service
  - Improved query management
  - Lower risks from supplier registration processes
13. In order to mitigate the above risk and seek to provide the best outcome for the tenants, the Applicant intends to place a LTQA (Long Term Qualifying Agreement) via a PCR (Public Contracts Regulations 2015) compliant, three-year flexible procurement framework managed by leading energy consultant, Inspired Plc.
14. Gas and electricity will be procured from the wholesale market in tranches up to four years ahead of the contract commencement. Intraday volatility of these futures markets is regularly 4% - 5% and can increase to over 20% in particularly volatile markets. It is therefore necessary to make transactions in minutes to secure screen pricing.

15. The nature of the Act means that it is not reasonably practicable for the Applicants to give the required information at note of the proposal stage of the consultation process and also have regard to the Respondent's observations, as requirements are purchased in advance of the contract start. It is therefore not possible to act in the Respondents best interests as set out in the Public Contract Regulations whilst following the Section 20 Consultation procedure.
16. There are a total of 10,304 Domestic properties, both Leasehold and Tenanted which are liable for either or both a communal gas and electricity service charge.
17. The Applicant confirms that the following document have been uploaded to their website;
- A copy of the template letter to the Respondents
  - A copy of the application and supporting documents
  - Any Directions of the Tribunal
18. The Applicant confirms that will respond to any observations received and will keep the tenants up to date with the process of the application for dispensation.
19. The Applicant confirms that it will upload the following information to their website when it becomes available;
- The outcome of this application; and
  - The outcome of the resulting procurement exercise
20. In the interests of saving costs and protecting the environment, subject to the Tribunal agreement, the Applicant intends to display all information on their website and will not post hard copies except at the specific request of a Respondent.
21. I respectfully request that the Tribunal order the dispensation to enable the Applicant to act in line with best practice by managing the risk of dealing with the volatile nature of the energy markets

### **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.....

Kevin Jackson

Dated.....1<sup>st</sup> June 2022.....