

On behalf of: The Applicants  
Name of witness: D L Z Rapley  
Number of witness statement: First  
Date: 14 May 2024

**IN THE FIRST-TIER TRIBUNAL PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**BETWEEN (1) Clarion Housing Group Limited**

**(2) Clarion Housing Association Limited**

**(3) Latimer Developments Limited**

**Applicants**

**and**

**(4) Various tenants and leaseholders**

**Respondents**

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**WITNESS STATEMENT OF DANIEL LUKE ZAC RAPLEY**

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I, DANIEL LUKE ZAC RAPLEY, care of Ribble House, Ballam Road, Lytham St. Annes, Lancashire, FY8 4TS, will say as follows:-

1. I am employed as Procurement Specialist Account Manager at Inenco Group Limited ("Inenco"). Inenco has been contracted by the Applicants as an energy consultant.
2. I am making this Statement in support of the Applicants' application for the dispensation of all the consultation requirements provided for by section 20 of

the Landlord and Tenant Act 1985 (“the 1985 Act”) and the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the Regulations”) in respect of certain energy contracts. The purpose of this Statement is to explain the procurement methodology that the Applicants propose to follow if dispensation is granted, and to further explain the rationale for energy to be procured in this way.

3. The facts and matters set out in this statement are within my own knowledge unless otherwise stated and I believe them to be true. Where I refer to information supplied by others, the source of the information is identified; facts and matters derived from other sources are true to the best of my knowledge and belief.
4. Inenco procures and manages energy supply. It is one of the largest energy consultancies in the UK and has over 60 years’ experience in the energy sector.
5. The Applicants entered into an agreement with Inenco on 5<sup>th</sup> September 2023 for Inenco to procure gas and electricity from the wholesale market from 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2027 (“Master Agreement”). (This is co-terminus with an equivalent existing arrangement in place between Inenco and the Applicants.)
6. The procurement is in respect of the majority of the Applicants’ business premises as well as properties within its housing stock that have communal areas and/or are part of a heat network where energy costs are included within the service charge charged to residents; there is no separate procurement exercise.
7. Inenco’s role under the Master Agreement is to secure public procurement compliant energy supply contracts and procure energy from wholesale markets in line with the purchasing strategy instructed by the Applicants. Purchasing energy from the wholesale market secures competitive pricing as it negates the need to place all volume on a single day of the year.

8. I am familiar with the consultation obligations in the Regulations.
9. I have been involved with energy procurement since 2014 and work alongside a team at Inenco with well over 100 years' combined experience in the industry. We have helped many landlords achieve dispensation and in turn help their tenants achieve energy savings not normally achievable due to the consultation period and restriction of duration on utility contracts.
10. I have read the statement setting out the Grounds for the application and confirm that the comments made in that statement concerning the workings of the energy markets and the incompatibility of the Applicants' proposed procurement arrangements with the Regulations are correct.
11. Energy is a commodity and trades on the energy market. Currently, energy prices are typically changing 3-30% within the day and more than 100% over a year. With prices volatile, changing minute by minute, competitive quotations for energy are only held for a matter of hours rather than the 60 days needed to fully consult with residents.
12. Energy prices are currently volatile because they are reactive to worries about supply and demand throughout all of Europe, as well as in the UK. This is largely due to the ongoing war between Russia and Ukraine, and the effect that has had on supply to Europe through sanctions by Europe or cuts to supply by Russia. This situation is expected to continue for the foreseeable future, since Russia has now effectively withdrawn from supplying Europe, which is likely to lead to elevated pricing and potential spikes for even longer.
13. Barring a dramatic turnaround in Russia/Ukraine/Europe relations, supply worries are likely to continue and potentially get worse over the next 12 months. The backdrop is that Europe was able to fill their reserves with Russian gas over the summer of 2022, before Russia cut all pipelines, and Europe experienced an abnormally mild winter in 2022/23, so energy prices actually came down over that period. We will continue to see high levels of risk each

winter and should we have a particularly cold winter this could drive prices up for a longer period, as Europe competes for liquid natural gas cargos to meet demand and load into storage for the following winter.

14. Whilst prices are currently lower than in 2022/23, there is backwardation in the market meaning that energy is cheaper the further out we currently place. This is a common occurrence in the energy market. Current wholesale energy prices for the period from 2025 to 2028 are cheaper year on year. That is, prices for 2026 are lower than for 2025, prices for 2027 are lower than for 2026, and so on.
15. Adopting a flexible 3 year wholesale purchasing strategy would enable Inenco, on behalf of the Applicants, to react to any given scenario within the day. The purpose of such a strategy would be to try to protect the Applicants' residents in relation to energy prices during a further 3 year period. We have already assisted the Applicants in relation to such a strategy under the Applicants' previous dispensation under section 20ZA of the Landlord and Tenant Act 1985 (case ref. LON/00BE/LDC/2020/0067), and continue to do so (although I am aware the previous dispensation period came to an end on 31<sup>st</sup> March 2024, and hence the consultation obligations in the 1985 Act and the Regulations would apply to certain energy contracts entered into by the Applicants after that date).
16. Energy can be procured on the wholesale market by using one or more types of strategies: fixed price; capped; or active trading in which an aggressive buy and sell mechanism is used (trend strategy). Whichever strategy is used, purchasing from the wholesale market generally secures competitive pricing as it negates the current need to place all volume on a single day of the year.
17. It is possible that a capped strategy placing a 5% virtual cap on prices for each of the 3 years looking forward may be used. Under this strategy, prices would track the market downwards but never move upwards, and should the market

take an upturn such that prices increased, Inenco would then trade as soon as possible.

18. An alternative strategy that may be used is the trend strategy. This would take a much more aggressive buy and sell strategy through a turbulent market, trying to take advantage of peaks and troughs by buying energy while prices were on the way up, and selling at the peaks to repurchase on the way down, to produce a benefit for residents in terms of the overall cost of the energy procured.
19. The strategy chosen would be dependent on the market after the Applicants achieved a dispensation under section 20ZA of the Landlord and Tenant Act 1985. The Applicants' customers would benefit from any reduced increase for the period of the contract.
20. Wholesale energy prices in the market have recently dropped off significantly and are currently over 300% lower than in August 2022. In addition, due to the current backwardation in the market, current wholesale energy prices for the period from 2025 to 2028 are lower than near markets. It is therefore likely to be advantageous for residents for the Applicants to enter into a new 3 year wholesale purchasing strategy in early to mid-2024, for energy required during the period from 1<sup>st</sup> April 2025 to 31<sup>st</sup> March 2028.
21. However, it is intended that the Applicants would remain flexible as to when precisely they choose to enter into the new 3 year wholesale purchasing strategy for the period 1<sup>st</sup> April 2025 to 31<sup>st</sup> March 2028, in order to take advantage of optimum market conditions as they present themselves.

**STATEMENT OF TRUTH**

**I believe that the facts stated in this witness statement are true.**

**Signed** \_\_\_\_\_

**Daniel Luke Zac Rapley**

**Date** \_\_\_\_\_