

**Open Report on behalf of Andrew Crookham, Executive Director - Resources**

Report to:	<b>Councillor M J Hill OBE, Leader of the Council and Executive Councillor for Resources, Communications and Commissioning</b>
Date:	<b>19 – 23 December 2022</b>
Subject:	<b>Contract Renewal for the Supply of Electricity 2024 - 2028</b>
Decision Reference:	<b>I028390</b>
Key decision?	<b>Yes</b>

**Summary:**

The report identifies that the Council's arrangements for purchasing electricity are up for renewal. The report provides an overview of the electricity market, sets out the Council's current arrangements and the alternatives, and proposes a way forward.

**Recommendation(s):**

That the Leader of the Council approves:-

- 1) the Council procuring electricity through the renewed ESPO electricity framework October 2024 – September 2028; and
- 2) the appointment of Total Gas and Power as the supplier to manage the non-commodity provision; and
- 3) the purchase of brown electricity for the period October 2024-October 2025 reviewing thereafter on an annual basis.

**Alternatives Considered:**

The advantages and disadvantages of dealing with the purchase of electricity in-house or utilising other framework agreements is detailed below:

1 The Council delivers in-house

**Pros**

- ✓ The Council has full control and pays no administrative fee

**Cons**

- ✗ No Specialist staffing resource to deal with the complexities referred to in the

Long-Term Drivers table above, trading software, or track record, no aggregated spend and only minimal quantities purchased.

### 2 Independent Energy Broker

#### **Pros**

- ✓ Dedicated specialist resource
- ✓ Trading software solution already in place

#### **Cons**

- ✗ Profit making organisation
- ✗ Reliant on brokers' knowledge and expertise
- ✗ No rebate
- ✗ No transparency around past or anticipated future performance
- ✗ Uncertainty re scale of any aggregated spend and cost of service

### 3 Alternative Public Buying Organisation

#### **Pros**

- ✓ Aggregated spend – attractive to market
- ✓ Dedicated specialist resource
- ✓ Trading software solution already in place
- ✓ Not for Profit Organisation

#### **Cons**

- ✗ Unable to benchmark framework performance
- ✗ No influence in decision making at governance level
- ✗ Management fee

### **Reasons for Recommendation:**

ESPO, of which Lincolnshire is a founder member, provides a managed service to the Council using aggregated requirements and their expertise in the energy market to secure the most cost-effective prices and gain budgetary certainty.

#### **Pros**

- ✓ Aggregated spend - attractive to the market
- ✓ Framework has previously performed well
- ✓ Rebate received on spend throughput
- ✓ Dedicated specialist and professional resource
- ✓ Trading software solution already in place
- ✓ Ability to influence decision making at governance level
- ✓ Strong customer service
- ✓ Not for Profit Organisation
- ✓ No transition costs/activity

#### **Cons**

- ✗ Management Fee
- ✗ Unable to benchmark against other PBO's

## 1. Background

- 1.1. Since 2007, Lincolnshire County Council (LCC) has procured its electricity supply for traffic lights, street lighting, schools and corporate property through the ESPO Energy Access Agreement (Framework). This framework is accessed by over 100 Local Authorities, Academies, Housing Associations and Charities and ESPO aggregate the requirements to apply leverage to the market to secure more favourable pricing.
- 1.2. The ESPO framework has the flexibility to buy green or brown energy for individual large customers such as LCC. Previous discussions between Property, Highways and the Sustainability Team determined that there were better ways of reducing the Council's carbon emissions for example by reducing consumption rather than absorbing a budgetary increase for green electricity.
- 1.3. The table below shows the consumption in Kilowatt hours (kWh) for the last three contract years of the current framework.

Contract Period	Area	Consumption kWh
Oct 2020 – Sept 2021	Schools	18,475,860*
	Property	21,592,241*
Oct 2021 – Sept 2022	Schools	22,013,670
	Property	25,884,221
Oct 2022 – Sept 2023	Schools	20,867,394
	Property	20,462,952

\* Consumption reduced due to periods of lockdown

- 1.4. It should be noted that there is an additional cost of buying all green rather than brown energy. This is because there are generally higher administrative costs, for example obtaining a Renewable Energy Guarantee of Origin certificate and the tendency to have smaller and community owned generators within the portfolio and higher costs of operating due to the investment in detailed forecasting and demand management processes to match generation to demand. It should also be noted that the Council does procure green gas. Currently the additional cost per kWh is £0.0056, which would equate to an additional cost of £231,449.938 per annum based on 22/23 usage.
- 1.5. As part of the work contributing to the achievement of the Green Master Plan, the Council has established the Corporate Landlord Energy & Environment Group (CLEEG) that reports into the Environmental Board. A number of projects are underway, including replacement LED for street lighting, refurbishment of buildings through the smarter working programme, installation of solar PV panels on corporate buildings, etc to reduce the electricity demand.
- 1.6. The Council last time made the decision to purchase brown electricity as opposed to green. Brown energy is energy that comes from conventional fossil fuels, such as oil,

gas or coal. The combustion from these fuels releases harmful emissions into the environment. Renewable or “green” energy all comes from clean sources that are more sustainable and are perceived to be better for the environment e.g. solar, wind, geothermal, biogas, eligible biomass, and low-impact small hydroelectric sources. In fact, 50% of the Council’s brown electricity already comes from renewable sources compared to the 39% average on UK standard electricity. The Council can change its mind on an annual basis should it wish to purchase green electricity.

### Current Arrangements

- 1.7. Under the current Framework (Oct 20- Sept 24) the Council signed over delegated authority to ESPO to conduct the commodity trading of brown electricity on the council's behalf. Trading on the commodity market through its internal trading software.
- 1.8. As part of the framework agreement, the supply (non-commodity) of electricity is currently contracted to Total Gas & Power whose responsibility is to correctly charge and invoice the Council for its consumption.
- 1.9. Over the last 12 months events such as the conflict in Ukraine and its subsequent impact on European energy supplies have led to a rapid increase in wholesale energy costs. As a result, in recent months domestic and business users have regularly seen costs that are more than 300% higher than they were a year ago. Wholesale cost for electricity this winter peaked at circa 80p/kWh with annual fixed prices in excess of 70p/kWh.
- 1.10. Estimated volumes of kWh and costs (including standing charges, etc) for the contract period October 22 – September 23 across all property and schools, street and traffic lights before the Energy Bill Relief Scheme is shown in the table below. For comparison the pricing for the 20/21 and 21/22 contract periods are also shown.

Contract Period	Area	Average pence/kWh			Cost
		Day	Night	Other	
Oct 2020 – Sept 2021	Schools	13.98	10.92	11.95	£3,698,472.46
	Property	13.47	10.92	14.92	£3,173,245.08
Oct 2021 – Sept 2022	Schools	15.11	12.10	14.87	£3,454,562.02
	Property	15.05	12.43	16.60	£4,230,095.12
Oct 2022 – Sept 2023	Schools	31.27	28.62	31.00	£6,967,254.97
	Property	31.79	29.48	33.12	£7,111,416.22

- 1.11. The Government has recently introduced the Energy Bill Relief Scheme, which caps the price per kWh for six months from October 2022 to March 2023. This is estimated to discount the cost by approx. £4.3 million.

## How it Works

- 1.12. ESPO has dedicated professional resource to meet the Council's needs including.
  - Contract Support Officer
  - Billing Manager
  - 2 Trade and Risk Managers
  - Trade and Risk Analyst
  - Customer Relationship Manager
- 1.13. The dedicated resource has provided the Council with energy market briefings and data reports to meet FOI's as well as managing Total Gas and Power on our behalf. In addition, Total Gas and Power have dedicated resource that only manages the ESPO Framework portfolio.
- 1.14. Electricity Commodity Costs – This is the cost for the purchase of the electricity and is often known as the trading price. This element currently equates to about 45% of the cost per unit that is supplied and is slowly reducing as decarbonisation and network and system costs continue to rise both of which are non-negotiable. They currently make up 52% of the unit price with the supplier's margin making up the remaining 3%.
- 1.15. The existing framework allows ESPO to operate in a flexible manner adopting a hedging strategy which allows for varying volumes to be purchased periodically dependent upon market trends, in accordance with the agreed cover plan levels of the total ESPO portfolio. This is currently under a Purchase in Advance (PiA) strategy.
- 1.16. PiA –is where all of the electricity is purchased before the start of the supply period (this can often be 18 months ahead). This strategy is reasonably conservative allowing the Council to know the fixed price it will pay for the next 12 months and guarantees that the prices achieved are not subject to future market price movements. This creates budgetary certainty.
- 1.17. Changes in Energy demand across the continent will be a key factor in determining the strategy for purchasing this winter. European countries have targets to reduce energy use to help with the expectation of reduced supplies. How successful they are in this strategy will go a long way to determining prices for 2023. Analysts are forecasting that failure to reduce demand combined with a long cold winter could lead to rolling blackouts in some countries, which would have the impact of increasing wholesale costs for winter 2023.

## Framework Performance

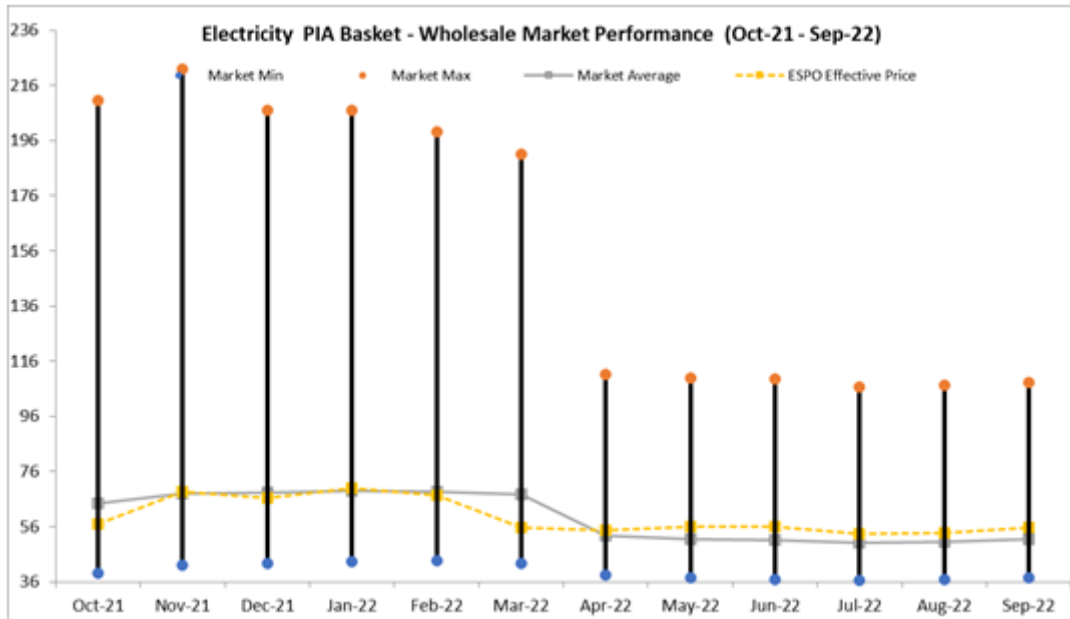
1.18. ESPO takes into account a number of price drivers when purchasing in advance.

Long Term Drivers					
Oil	Regulatory	Infrastructure	Covid-19	Macroeconomic	Political
<ul style="list-style-type: none"> <li>• Demand for Oil recovering, leading to highest prices since 2014</li> <li>• Japan wanting to impose price cap on Russian Oil</li> <li>• Sanctions placed on Russia are limiting supply</li> <li>• OPEC+ tighten production restrictions</li> <li>• Iran nuclear talks</li> </ul>	<ul style="list-style-type: none"> <li>• Acceleration of Green policies could add further non-commodity costs</li> <li>• Risk of increasing non-commodity charges due to reduction in amounts received in 2020 due to falling energy demand</li> <li>• Changes in energy policy from COP26</li> <li>• Domestic 2 year energy price cap, Non-domestic 6 month energy price cap</li> </ul>	<ul style="list-style-type: none"> <li>• UK coal phase out brought forward to October 2024</li> <li>• Return of German Coal, delayed closure of UK Coal Plants</li> <li>• French nuclear availability/heavy maintenance schedule</li> <li>• Sabotage of Nord Stream 1 and 2</li> <li>• Risk of damage to key gas pipelines in Ukraine</li> <li>• UK France inter-connector operation</li> <li>• New LNG terminals in Europe</li> </ul>	<ul style="list-style-type: none"> <li>• Impact of potential new COVID variants in winter</li> <li>• Booster vaccines likely</li> <li>• Spread of virus and lockdowns in Chinese major cities</li> <li>• Lockdown policies for western governments have changed</li> </ul>	<ul style="list-style-type: none"> <li>• Economic recovery is varied across different sectors</li> <li>• High inflation limiting economic growth</li> <li>• Fears of global recession</li> <li>• High energy prices limit growth</li> <li>• UK GBP is at an all time low compared to US Dollar</li> </ul>	<ul style="list-style-type: none"> <li>• War in Ukraine biggest risk to supply</li> <li>• Many governing bodies/countries choosing not to trade in Russian commodities</li> <li>• Middle East tensions remain and could re-emerge</li> <li>• COP26 agreements limit investment in new fossil fuel sources</li> <li>• Change in political landscape in UK</li> </ul>

1.19. The table below shows that ESPO have already purchased a large proportion of the Council's 23/24 electricity supply.

Supply Period	Volume Purchased	Wholesale Price Achieved	Wholesale Price Achieved p/kWh	Year-on-Year Change (%)
Apr-21 to Mar-22	100%	£52.24/MWh	6.044p/kWh	39%
Apr-22 to Mar-23	100%	£215.09/MWh	21.5091p/kWh	256%
Apr-23 to Mar-24	71%	£303.73/MWh	30.3727p/kWh	41%

1.20. The diagram below shows ESPO's trading performance against the current wholesale price for energy against the periods identified in the graph. This shows that ESPO is managing to track close to the current wholesale price throughout the period measured and is managing to avoid the market maximum prices where those prices are volatile and in light of the sector complexity illustrated in the Long Term Drivers table above.



## Governance

- 1.21. As a member of ESPO, Lincolnshire County Council has representation on the Energy Governance Panel which oversees buying. The Panel is made up of other partner authorities (County Councils) along with the ESPO Energy Team. This gives the Council the opportunity to influence the strategy and coverplan.
- 1.22. ESPO's role is to track the market and react quickly to market behaviours acting in the best interest of their customers (LCC) on a not for profit basis. In addition, to this ESPO have a proven track record of responsive customer service on administration, account changes, invoice validation and tackling FOI's because they have direct access and priority status with their suppliers. The Council is aware that a number of organisations have returned to the ESPO framework having tried the Crown Commercial Service framework and experiencing poor performance.
- 1.23. The service provided by ESPO is funded by the management fee charged through the utility bills which is passed back to ESPO by TGP. The total cost for LCC's portfolio, based upon current meters and/or supply is currently £14,300 per annum (fixed).

## Benchmarking

- 1.24. On previous occasions the Council have tried to benchmark the ESPO framework against similar framework agreements. This presented a number of issues, framework owners declined to share their frameworks performance figures for the following reasons;
- Trading periods differ
  - Buying strategies and risk profiling will differ
  - Coverplans differ
- 1.25. This has been recognised by the Local Government Association and whilst discussions have taken place between them and purchasing organisations in relation

to publishing performance figures, the Public Buying Organisation's (PBO's) have still not shared any information. In addition, the complexities of the market and the un-influenceable factors that impact on commodity pricing means that whilst a framework's buying strategy may perform well one year, it may not perform as well the following year.

### **Proposal**

- 1.26. The proposal is to sign up to the recently established ESPO Electricity framework Oct 2024 – Sept 2028, thus allowing ESPO to continue with the commodity trading with Total Gas and Power again being the preferred supplier to manage the non-commodity provision.
- 1.27. The proposed approach is aligned with recommendations set out in the National Procurement Strategy in that Council's should look to utilise PBO's for their energy provision. In addition, the Council will receive a rebate based upon the throughput of this framework.
- 1.28. The Council receives an annual rebate from ESPO which is calculated using a number of factors such as spend through the top 10 frameworks (of which the Electricity framework is one), spend through the catalogue, and other income generated through running procurements on behalf of public sector customers. Spend through the Electricity framework generates approximately one third of the rebate for the Council.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.



- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

Equality issues have been considered and there are not considered to be any issues arising out of this decision.

Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The Joint Health & Well Being Strategy (JHWS) has been considered and there are not considered to be any direct impacts of this decision.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

Crime and disorder issues have been considered and there are not considered to be any issues arising out of this decision.

### 3. Conclusion

It is recommended that the Council sign up to the recently established ESPO Electricity framework October 2024 – September 2028 for the purchase of electricity; continues with Total Gas and Power being the supplier to manage the non-commodity provision and; purchases brown electricity for the period October 2024 – September 2025 reviewing thereafter on an annual basis.

#### 4. Legal Comments:

The Council has the power to enter into the framework proposed which is compliant with the Council's procurement obligations.

The decision is consistent with the Policy Framework and within the remit of the Leader of the Council.

#### 5. Resource Comments:

The recommendation in this report should secure best value by providing competitive pricing, while reducing procurement, management and administrative costs. Electricity costs will continue to be funded from services' revenue budgets.

Whilst it must be noted that there is currently considerable risk and uncertainty within energy markets because of international events – with costs now higher than they were expected to be twelve months ago, the proposal set out in this report enables the Council's financial planning process to reflect more accurate cost estimates for 2023/24 in its budget proposals.

### 6. Consultation

#### a) Has Local Member Been Consulted?

N/A

#### b) Has Executive Councillor Been Consulted?

Yes

#### c) Scrutiny Comments

The decision will be considered by the Overview and Scrutiny Management Board at its meeting on 15 December 2022 and the comments of the Board will be reported to the Leader of the Council before the decision is taken.

#### **d) Risks and Impact Analysis**

With any switching of utility contracts there is always the issue of data migration to a new provider and the setting up of a billing system, this can be resource intensive. Other risks are detailed in the body of the report

#### **7. Background Papers**

No Background Papers within the meaning of section 100D of the Local Government Act 1972 have been used in the preparation of this Report.

This report was written by Sophie Reeve who can be contacted on [Sophie.Reeve@lincolnshire.gov.uk](mailto:Sophie.Reeve@lincolnshire.gov.uk) and Fiona Fielding, who can be contacted on [Fiona.fielding@lincolnshire.gov.uk](mailto:Fiona.fielding@lincolnshire.gov.uk).

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