



Meeting or Decision Maker: Cabinet Member for Finance and Council Reform

Date: 15 September 2023

Classification: General Release

Title: CCS Energy Purchase Agreement for 2024 – 25 Supply Period

Wards Affected: All

Key Decision: Yes

Financial Summary: In the 2022-23 financial year Westminster City Council spent £11.449m on energy supply via its agreements through the CCS framework and saved £1.468m against standard commercial contracts for the supply period 1 April 2022 to 31 March 2023 due to its use of CCS framework. Estimated costs for 23/24 are £17.804m. This report seeks approval to forward purchase energy to a similar level of spend for 24/25.

Urgency: Under provision 33.14 of the Access to Information Procedure Rules in the Council's Constitution, the Council may apply a case of special urgency to the rule to publish notice of a decision 28 days in advance of that decision being taken with the agreement of the Chair of the relevant Policy and Scrutiny Committee. Cllr Paul Fisher, Chair of the Finance, Planning and Economic Development Policy and Scrutiny Committee agreed to this decision being treated as a matter of special urgency on 15 September 2023. The decision could be taken immediately after this agreement was given.

Adherence to the normal access to information rules, and specifically the 28 day rule, are not practical in

these circumstances as Westminster City Council must commit to the purchase window for the 2024/25 financial year by 15 September 2023, and not doing so would leave the Council liable to increased costs.

Report of:

Gerald Almeroth, Executive Director Finance and Resources

1. Executive Summary

- 1.1. WCC currently procures its energy (Housing and Corporate) through CCS Framework RM 6011. CCS trades and purchases gas and electricity on WCC's behalf with WCC entering into rolling one-year contracts with the gas and electricity suppliers. The current one-year rolling contracts expire on 31 March 2024. WCC's current basket is a Locked (L6) 12 months fixed price which has a 6-month purchase window before the start of delivery. The next purchase window is from 1 October 2023 to 31 March 2024, for consumption from 1 April 2024 to 31 March 2025. For WCC to be included within this purchase window we are required to commit by 15 September 2023. We are therefore seeking cabinet member approval to commit to purchasing the energy supply for next year 24/25 at a cost of circa £18m.
- 1.2. Officers are currently reviewing long-term purchasing options which includes an options appraisal of CCS versus the LASER Framework and following this we will aim to propose our long term strategy which would secure the supply from April 2025 onwards.
- 1.3. A CGRB gate report and Cabinet Member Report will follow to formalise the long-term proposals, but based on the deadline of 15 September Member approval is sought for the continued use of the CCS Framework for energy supply in the short term.

2. Recommendation

- 2.1. That the Cabinet Member for Finance and Council Reform approves:
 - 2.1.1. The continued commitment to the CCS energy framework (RM6011) for the provision of gas and electricity for a further 12-month period from 1 April 2024 to 31 March 2025 at a cost of circa £18m.
 - 2.1.2. To delegate to the Director of Corporate Property to enter into such legal agreements as may be necessary for WCC to achieve paragraph 1 above.

3. Reasons for Decision

- 3.1. This decision will ensure the supply of Gas and Electricity continues at favourable market rates to all Westminster corporate and housing assets for the period April 2024 to March 2025.
- 3.2. The CCS energy framework has a deadline of 15 September 2023 for WCC to be included in the purchasing window for energy supplies for 2024-25. If it does not meet this deadline the Council would have to seek its energy provision elsewhere which may lead to increased costs.

4. Background, including Policy Context

- 4.1. The Council currently utilises the Crown Commercial Services (CCS) Framework RM 6011, via an ongoing access agreement, for energy purchase. Off the back of our access to the framework, the Council has contracts in place with the following providers, who are the sole suppliers for each commodity: the electricity supply to EDF Energy Ltd (Zero Carbon for Business guarantees backed supply), and for gas supply to Total Energies Gas and Power Ltd.
- 4.2. Our current basket is a Locked (L6) 12 months fixed price which has a 6-month purchase window before the start of delivery. The next purchase window is from 1 October 2023 to 31 March 2024, for consumption in 2024-25.
- 4.3. This approach is aligned with the recommendation of the Pan-Government Energy Project (now part of the Cabinet Office), which advises that public organisations should adopt aggregated, flexible, and risk-managed energy procurement.
- 4.4. Flexible purchasing allows the price of energy to be fixed over a number of favourable trades in the wholesale market, over a specific period. Some of the main benefits over the traditional fixed-price, fixed-term include:
 - A transparent pricing method
 - Purchasing on the wholesale market
 - Adoption of a risk management strategy.
- 4.5. The Council has been using the CCS as the Central Purchasing Body (CPB) and two different suppliers for the different utility products, across the Council's Corporate Property and Housing portfolios. CCS is an executive agency and trading fund of the Cabinet Office of the UK Government.
- 4.6. By using aggregation CCS have unrivalled buying power to get the best deals and frequently outperform the market average. Any public sector organisation can join, and central government is mandated to use CCS energy frameworks.
- 4.7. The electricity and gas markets have continued to be extremely volatile and, although they peaked in 2022, they remain elevated to historic norms. The market is also changing with a number of supplier exits and a changing dynamic following the Russian invasion of Ukraine.
- 4.8. If the short-term proposal for supply period 2024-25 is not approved the Council will incur out of contract rates which could be two to three times higher than CCS deemed contract rates.
- 4.9. The Council does have flexibility over its energy procurement strategy, as the use of the CCS framework is not mandated, but due to its aggregated levels of purchasing the CCS

clearly provides a value for money solution to the Council. The Council proposes to continue to use CCS in the short term, but the Council will review its options from a commercial and technical perspective to ensure we continue to utilise the best available purchasing options long term.

- 4.10. The Council could utilise other existing frameworks such as LASER. The energy and procurement teams are currently undertaking a comparison of the two frameworks to consider which offers best value in the long term. But as we have been unable to conclude this analysis ahead of the deadline for commitment to CCS forward purchasing agreements it is imperative, we continue for a further 12 months to avoid an increase in costs.

5. Commercial Benefits

- 5.1. £2.2 billion of CCS customer spend goes through the CCS frameworks each year. The framework has a customer base of over 1,200 public sector organisations and over 90,000 supply points. Customers include all government departments, NHS trusts across England and Wales, more than 100 local authorities and The Welsh Government.
- 5.2. Energy Bill Relief Scheme (EBRS) was launched by the UK Government in September 2022. The purpose was to shield business energy consumers from the exceptionally high wholesale commodity prices on consumption billed between 1 October 2022 and 31 March 2023. In total CCS customers paid an estimated £627 million less than they would have done had they been billed at the EBRS support prices just over the winter 2022 period.
- 5.3. Despite the challenging market conditions, CCS trading strategies have continued to provide customers with commercial benefits from electricity and gas supply of £307,726,643 for the April 2022 supply year.
- 5.4. In the last financial year April 2022 to March 2023 Westminster City Council spent £11.449m on energy supply and consumed 106,484,462 kWh of gas and 23,755,495 kWh of electricity. During this supply period CCS saved Westminster City Council £1,468,504 against standard commercial contracts for the supply period 1 April 2022 to 31 March 2023. This is equivalent to 14.73% of your electricity spend and 8.24% of your gas spend through the CCS Supply of Energy agreement.
- 5.5. Appendix A shows the commercial benefits of forward purchasing WCC's (L6) basket over the previous 3 years of the contract.
- 5.6. Appendix B shows the (L6) basket strategy market performance over the last three years with market commentary.

6. Financial Implications

- 6.1. This contract covers budgets held within Housing (Housing Revenue Account), Corporate Property, Highways, Public Conveniences and Parking (the latter all General Fund). In 2021/22 total costs were £8.663m. This rose to £11.449m in 22/23 and an estimated £17.803m in 23/24 as a result of significant increases in commodity prices (49% electricity and 63% gas). Provision has been made corporately in the 2023/24 budget to fund the 2023/24 increase for the general fund. For the HRA the increased cost would be covered by increased charges to tenants and leaseholders. However, collection of the debt would need to be managed sensitively by the Council given the significant impact on the cost of living for these tenants and leaseholders. Forward purchases of gas and electricity for 2024/25 will not commence until October 2023. Current market prices are lower than 2023/24 but the market direction is static or increasing. Therefore, the costs for 2024/25 have been estimated at £17.803m for the purposes of this paper. It is anticipated that continuation with the CCS framework will provide the best value for money given the volatility of energy markets and the benchmarking undertaken against the BEIS comparator.

7. Legal Implications

CCS Framework

- 7.1. WCC procures energy via CCS Framework RM6011 (the “CCS Framework”). This arrangement has been ongoing for many years rolling over as one framework expires and another commences.
- 7.2. WCC entered into a Customer Access Agreement with CCS (then Buying Solutions) in 2012. This Access Agreement has given WCC access to the CCS Framework on a one year rolling basis with WCC having the option of breaking the agreement in September each year with effect from the following April.
- 7.3. CCS trades and purchases gas and electricity on WCC’s behalf with WCC entering into separate rolling one-year contracts with each of the gas and electricity suppliers (the “Energy Contracts”).
- 7.4. The current one-year rolling contracts expire on 31st March 2024. Unless WCC exercises the break provision by 15 September 2023 the Access Agreement will roll over for a further 12 months and WCC will be tied into the Energy Contracts for the period 1 April 2024 to 31 March 2025.
- 7.5. A new CCS Framework started on 27 February 2023 and expires on 26 February 2027. The 2024/25 Energy Contracts will therefore be under the new CCS Framework, albeit with the same providers as under the previous version of the framework.

Procurement Code

- 7.6. The rolling over the Energy Contracts for one year is akin to the award of new one-year contracts.
- 7.7. The value of these contracts means that a decision to award them is a Key Decision. Due to the timescales in which this decision needs to be made an Urgent Key Decision is required.
- 7.8. WCC's Procurement Codes requires that the award of a contract valued at £1.5m or more should be endorsed by CGRB and approved by the appropriate Cabinet Member following recommendation from the appropriate Executive Leadership Team member.
- 7.9. Under section 8.1.1 of WCC Procurement Code, where there is urgency which means that compliance with the Code is not feasible:
 - 7.9.1. Officers must notify the Chair of the Commercial Gateway Review Board (CGRB),
 - 7.9.2. Approval from the appropriate decision maker must be obtained; and
 - 7.9.3. A retrospective report of any contracts awarded, including full justification supporting the activity undertaken, must be submitted to CGRB at the next available board meeting after the event.

8. Consultation

- 8.1. The commitment to spend will have an impact on leasehold residents as this contract supplies energy for shared areas and facilities, this will form part of service charge fees.
- 8.2. It is planned to consult in the near future over long term strategies and proposals. In the short term it may be necessary to apply for dispensation to the requirement of S20 as the deadline for the decision removes the opportunity to consult.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

John Hamilton (jhamilton1@westminster.gov.uk)

APPENDICES

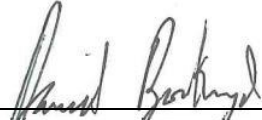
Appendix A – Westminster City Council - CCS Energy Contract Spend and Commercial Benefits

Appendix B – CCS L (6) Basket Purchasing Strategy - Past Performance

For completion by the **Cabinet Member for Finance and Council Reform**

Declaration of Interest

I have no interest to declare in respect of this report

Signed:  Date: 15 September 2023
NAME: **Councillor David Boothroyd**

State nature of interest if any
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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendations in the report entitled **CCS Energy Purchase Agreement for 2024 – 25 Supply Period** and reject any alternative options which are referred to but not recommended.

Signed .....

Councillor David Boothroyd, Cabinet Member for Finance and Council Reform

Date ... 15 September 2023.....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, the City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.