FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	18UE/PHC/2023/0016
Property	**:**	Tranquility Park, Station Road, Woolacombe, Devon EX34 7AN.
Applicant	**:**	Tranquility Park Residents Association.
Representative	**:**	Susan Kram.
Respondent	**:**	Wyldecrest Parks (Management) Limited.
Representative	**:**	David Sunderland.
Type of Application	**:**	Determination of a question arising under the Mobile Homes Act 1983 (MHA) or an agreement to which it applies.
Tribunal Members	**:**	Judge C A Rai.
Date type and venue of Hearing	**:**	10 December 2024 Determination on the papers without a hearing.
Date of Decision	**:**	23 January 2025.

DECISION

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1. The Tribunal finds that the Respondent overcharged the Applicant for electricity between 1 November 2022 and 30 November 2023.

2. The Tribunal directs that the Respondent reconcile the amounts paid to its electricity suppliers for the first four of the six periods referred to by the Applicant in the application with the amounts invoiced to the Applicant for the same periods, in compliance with OFGEM guidelines which reconciliation must take account of the cost of the electricity supplied to its own property within the Park during the same period.

3. Provided the reconciliation is agreed by the Applicant the Respondent must reimburse the Applicant in respect of the overpayment within 28 of the date of this decision.

4. The Tribunal directs that the Respondent identify the amounts due payable and paid to Shell, its current electricity supplier, during the last two of the six periods referred to by the Applicant in the application and thereafter reconcile those amounts with the amounts invoiced to the Applicant for the same periods, in compliance with OFGEM guidelines which reconciliation must take account of the cost of the electricity supplied to its own property within the Park during the same period. Provided the reconciliation is agreed by the Applicant the Respondent must reimburse the Applicant in respect of the overpayment within 28 days of the date of this decision.

5. If the Applicant does not agree with the reconciliations made by the Respondent, it may apply to the Tribunal for it to determine the amount of the overpayments and the sum to be repaid to the Applicant.

6. The Tribunal orders the Respondent to reimburse the Applicant in respect of the application fee of £100 within 28 days of the date of this Decision.

7. The Tribunal orders the Respondent to pay interest to the Applicant at 2% above the Bank of England base rate on any payments due which are not paid by the Respondent within 28 days of the date of this decision. Interest will run from the date of this decision until the date of payment.

8. The Tribunal makes no order as to costs.

9. The reasons for the Tribunal's decisions are set out below.

Background

10. The Applicant made an application to the Tribunal dated 30 September 2023. The application, made on behalf of the Residents Association of Tranquility Park Station Road Woolacombe Devon, (Tranquility Park), was signed by Susan Kram, Chairman of Tranquility Park Residents Association.

11. The Application was made under section 4 of the MHA and sought a determination by the Tribunal relating to the recharge of electricity costs by the Respondent, Wyldecrest Parks (Management) Limited, (Wyldecrest) as a reseller of electricity.

12. The Applicant said that Wyldecrest had made profits by reselling electricity to residents of Tranquility Park, which contravened section 44 of the Electricity Act 1989. It explained how it had reached this conclusion by referring to the supplier invoices and producing data tables showing that the Applicant had paid Wyldecrest more for electricity during six specified periods than Wyldecrest had paid to its suppliers.

13. The Applicant stated that during the first four periods 35,000.5 kWh of electricity was purchased by Wyldecrest, at a cost of £13,912.96 + (VAT @ 5%), but during the same period, Wyldecrest billed the Applicant for 73,364 kWh of electricity at a cost of £28,813.37 + VAT. The Applicant

said this overcharge is a profit made by Wyldecrest of £14,901.41 + VAT [5].

14. The Applicant asked the Tribunal to:-

a. determine that, by its actions, Wyldecrest has contravened the Electricity Act.

b. direct Wyldecrest to make "suitable reimbursements" to each affected home within a sensible timeframe and pay "associated interest".

c. direct that Wyldecrest make every effort to avoid making "similar profits" in the future.

d. direct Wyldecrest to reimburse its application fee and pay its tribunal costs, because the dispute could have been resolved without involvement of the Tribunal if the Respondent had agreed to mediation.

15. Directions, dated 15 May 2024, were issued by Judge Jutton in response to the Application. In summarising the dispute Judge Jutton replicated the case summary provided by the Applicant [1]. That summary does not accurately reflect the wording of the Application or the Applicant's statement of case, albeit the Applicant wrote both.

16. The Respondent submitted a request for mediation dated 17 May 2024 [119], to which the Applicant responded (27 May 2024), stating that mediation would not be effective and that a Tribunal ruling is required [121].

17. The Respondent subsequently made a case management application dated 31 July 2024 which sought both an extension of time and consent to submit copies of additional email correspondence (dated 30 July 2024) which was granted.

18. The Applicant made a case management application dated 18 September 2024 asking for further submissions about supplier bills, the running costs of the park, and solar panels to be considered [ASB8].

19. Judge Jutton issued Directions dated 25 September 2024 which permitted the inclusion of the additional submissions and provided that both parties could make short additional statements.

20. Those direction resulted in both parties submitting random emails to the Tribunal, containing attachments which were further emails, in direct contravention of the Tribunal's earlier directions.

21. Judge Rai issued directions dated 11 December 2024 stating that Tribunal would only consider submissions and evidence which complied with its Rules and Bundle Guidance. The parties were directed that any further failures to comply with the Tribunal's directions would risk the Tribunal not considering further submissions.

22. The Tribunal received an agreed hearing bundle, and two supplemental bundles, one from each party. Neither party requested an oral hearing. References to numbers in square brackets are to pages in the hearing bundle. References to numbers in square brackets preceded by "A" are to pages in the Applicant's supplemental bundle and references to numbers preceded by "R" are to pages in the Respondent's supplemental bundle. References to numbers are to the pdf page numbering.

23. Whilst the Tribunal has been provided with, and examined, all evidence and documents in the parties submissions, it has not referred specifically to every document or each piece of evidence considered, nor has it elaborated, at length, on its conclusion or reasoning. This decision is intended to provide the parties with reasons for the decision which proportionate both to the resources of the Tribunal, the significance and complexity of the issues before it and which explain how the Tribunal reached its conclusions.

The Tribunal's jurisdiction

24. Clause 4 of the MHA gives this Tribunal jurisdiction to determine any question arising under that Act or in any agreement to which it applies.

25. The powers of the Tribunal conferred by the MHA are supplemented by section 231A of the Housing Act 2004. Subsection (2) gives the Tribunal general powers to make directions it considers necessary or desirable to secure the just and economic disposal of proceedings. Subsection (4) lists the type of directions which the Tribunal might give. Copies of the relevant parts of the legislation are set out in **Appendix 1** to this decision.

26. There is settled case law that the section 231A shall be interpreted as giving this Tribunal the power to order remedies.

27. A copy of section 44 of the Electricity Act 1989 which relates to the Maximum prices for the resale of electricity by authorised suppliers, is reproduced in **Appendix 1.**

Applicant's submissions

28. The Applicant set out its submissions at length in the initial statement which accompanied the Application. The Tribunal has interpreted this application as being "a question which arises under the Act" (as has the Respondent).

29. Whilst not precisely expressed as a question, the Applicant asked the Tribunal to determine why it has been charged and continues to be charged more for the electricity supplied to it than the Respondent has paid, or is paying, to its supplier during equivalent periods. Has the Applicant been over-charged for electricity by the Respondent and if so to what extent?

30. The Applicant has provided evidence, that it has paid the Respondent more for the electricity it has consumed than the Respondent has paid to its suppliers during an equivalent period.

31. The Application before the Tribunal now relates to six specific periods, (between 9 September 2022 and 15 February 2024) [5].

32. The supplier invoices disclosed in the bundle relate to periods between 1 June 2022 and 30 November 2023. One further invoice for the period between 1 and 29 February 2024 was subsequently provided (by the Respondent) but is in part illegible [113].

33. The parties agree that the Respondent is a reseller of electricity and therefore bound to comply with the Guidance issued by OFGEM which regulates the maximum resale price [200].

34. The Applicant stated that "it does not directly dispute the manner of this calculation" (the way in which the Respondent calculates the unit cost of electricity). It accepted that the calculation follows the OFGEM guidelines. It said it believed that "there is an error in the application of the calculation to the individual resident's bills which is resulting in a huge overcharge each period and hence massive profits for the Respondent" [4].

35. The Respondent has not attempted to answer or address that question. In the Respondent's first statement, David Sunderland, Estates Director of the Respondent explained how Wyldecrest calculate the quarterly charge per kWh of electricity used to prepare quarterly invoices [71]. He said that once Wyldecrest has calculated the unit charge it multiplies that charge by the readings taken from the individual meters and invoices each occupier. Invoices are sent to occupiers quarterly and the unit charge is re-calculated every billing quarter, using information from the last three available electricity supply invoices (which are for the three months preceding the month in in which invoices are issued to residents). The Respondent has been invoiced monthly by its electricity suppliers during the periods referred to by the Applicant. Monthly invoices have been issued between 3 and 27 days after the end of the month to which they relate. Therefore, the Applicant has been invoiced for electricity at a kWh rate which relates in part to a period prior to the consumption [61 and 38]. Mr Sunderland explained this at length, in his statement despite acknowledging that the Applicant does not dispute the manner of the calculation.

36. The parties agreed that under the statutory implied terms, relating to the Applicant's occupation of their pitches, each is obliged to pay the Park Owner for all sums due in respect of the electricity supplied by the it. It is also agreed that Wyldecrest is obliged to provide documentary evidence of, and explain, its electricity charges.

37. In the Applicant's second statement, Ms Kram, made additional submissions relating to recent disclosure of emails about solar panels fixed to the obsolete clubhouse on the Park. These established that the solar panels are leased to a third party who benefits from the Feed in Tarriff. The only relevance of that information to this application, is a claim, by the Applicant, that the "free solar electricity" is not taken into account with regard to recharge of electricity by the Respondent.

38. The Applicant also submitted that the Respondent's electrical report [109] confirmed that Tranquility Park has a single supply meter. The report stated the metered electricity supply therefore served the Applicant's 25 homes, 21 chalets (described as **mainly** holiday chalets) [Tribunal's emphasis] and 6 other properties (2 park homes, three chalets and a static caravan) owned by the Respondent and used by its employees. It assumed that the meter also measures the power supplied to the streetlights and sales office [109]. The Applicant therefore submits that since the Respondent has confirmed that separate meters measure all the electricity consumed by other users, it is even more obvious that the Applicant is paying too much for its electricity [A1].

The Respondent's submissions

39. These are mostly contained in statements made by Mr Sunderland, and Jodie Thompson, Senior Accounts and Utilities Manager for Wyldecrest.

40. The Tribunal found the first six paragraphs of Mr Sunderland's statement have no direct relevance to the Applicant's statement of case. The question which the Tribunal has been asked to determine is set out in paragraph 29 above.

41. Mr Sunderland said that because there is no dispute about the number of units of electricity used by any resident, he does not accept that there has been any contravention of sections 4 and 44 of the Electricity Act. He does not accept any order for reimbursement is necessary or that the Tribunal has any jurisdiction to make such an order. He explained any discrepancy identified by the Applicant as essentially a timing issue. He said that the "Reseller's" meter readings (by which the Tribunal assumed that he means the Wyldecrest meter readings), are half hourly smart meters and can often be estimated but he offered no explanation or evidence as to why a smart meter would estimate a reading or why that would counteract the Applicant's claims [73].

42. Mr Sunderland submitted that "the Respondent contends that they have followed the letter of the Guidelines and have billed each resident at the correct rate agreed by the Applicant and have therefore not overcharged the residents for electricity or breached the Electricity Order…" [72].

43. Mr Sunderland stated that **until evidence is adduced that the meters are unreliable** the Respondent maintains that the billing which is based on the Resident's meter readings **"are regarded as reasonable"** [73] [Tribunal's emphasis]. He added that "Any anomaly between the main and the sub meters is held as surplus funds in reserve pending updated actual meter readings and the money goes to the electricity provider".

44. Ms Thompson, has, in her statement, helpfully provided information about the Respondent's smart meters which collect half hourly data. She says that until February 2024 all data was underestimated due to a communications issue with the "main incoming meter". She stated that the residents have only been charged what the electricity supplier charged the Respondent and that the meters have been checked and validated by an electrician and referred to the report in the bundle. She

said that it appeared that any fault relates only to the period between 16 February 2024 and 28 April 2024 (by which time the supplier was Shell). She referred to the electricity invoice for February 2024 being included in the bundle (which is the invoice which is (in part) illegible [113 - 117]).

45. In her second statement Ms Thomson accused the Applicant of "now changing the whole basis of the Tribunal application- they were taking us to tribunal on costs and charges not Kwh (sic) which again we have investigated commented and provided evidence that the main meter has been corrected".

46. Ms Thomson also said that street lighting is not included in their (the Applicant's) individual invoicing [R8].

47. With his last case management application, the Respondent submitted copies of the chain of emails between the third party and Ms Thompson and copies of the emails from Shell referring to an undercharge resulting from the communication fault. Ms Thompson stated that the HH data does not yet reflect the resolution of the bill but will in the "coming months" but that the Respondent will be billed for more units than it has billed the residents. The final paragraph of Ms Thompson's statement states that the bills and calculations show that the correct rate has been calculated, which is the question being asked under Section 4 and it is not disputed that each resident is being charged for the correct number of units as registered on their meters" [R9].

48. Contrary to Ms Thompson's statement, the email dated 26 July 2024 from Leah at Shell Energy UK confirmed that the communications data issue has been resolved and the November to February invoices (for December and January) and the April invoice (March) have been reissued and the outstanding balance is £9,749.85 which is presumably the underpayment plus any sum unpaid at the date of reissue. [R4 – 7]. Copies of those invoices were not disclosed.

49. In summary:-

a. both parties agree the Respondent's method of calculating the appropriate unit charge used to calculate the Applicant's electricity invoices complies with the OFGEM guidelines.

b. The OFGEM guidelines also provide that the reseller should undertake an adjustment when basing its invoicing on estimated billing. The Respondent is effectively estimating the charge because it is based on the unit kWh costs for the three months which precede the date of the meter reading. This is acknowledged by the Respondent in paragraph 22 of Mr Sunderland's statement [73].

c. A further complication arises because meter readings are made part way through February, May, August and November which makes it more difficult to compare what the Applicant has paid to its supplier during those periods with the amount invoiced to the Applicant. Where the unit costs fluctuate, as has been the case

during the six period identified by the Applicant it has been invoiced at a past rate rather than the current rate. The OFGEM guidelines contain a paragraph titled **Over/undercharging and refunds** [202], which states that where the reseller has estimated the costs of the electricity sold to the customer, he will need to revise his calculations when he receives information about the actual costs from his own supplier.

d. No evidence has been provided to show that the Respondent has ever revised its charges to the Applicant. However, Mr Sunderland acknowledged that the Respondent's meter readings, "which is a half hourly smart meter, can often be estimated" [73].

a. The Respondent's electrical report confirmed that a single metered supply measures the entire electricity consumption on the Park. The amount paid by the Respondent to it suppliers is for electricity supplied to the Applicants **and** the electricity supplied to other property within the Park controlled and used by the Respondent, including holiday accommodation, staff accommodation and offices. The Applicant suggested it might also include street lighting but supplied no evidence about street lighting in Tranquility Park.

b. In the Respondent's statement Mr Sunderland stated that there is no evidence that the meters are unreliable, although he also said that half hour (HH) smart meter (readings) can often be estimated but that any anomaly between the main and sub meters is held as surplus funds in reserve pending receipt of updated actual meter readings.

c. The Respondent (Ms Thompson) stated that its electrical report confirmed that the sub-meters have been checked and validated. The electrician's report [109] does not refer to checking or verification of the sub-meters. The report states that the electrician disconnected the mains supply and that no power was detectable or detected during the shutdown. The only meter which he "verified" was the main meter.

d. Ms Thompson said that a communications issue on the main supply meter led to the Respondent undercharging residents in February 2024 (around the time the supplier was changed to Shell) and that this has not yet been resolved.

e. Ms Thompson has explained that the solar panels do not directly change or impact upon the calculation of the Applicant's electricity bills. She has provided evidence that the Feed in Tarriff belongs to a third party.

50. The electrician's report, produced by PD Electrical dated 2/3 January 2024 headed "Power Report" stated that the company was briefed to conduct a thorough assessment of power sources at Tranquility Park Homes (sic) [109].

51. The instructions (issued to PD Electrical) are listed in six numbered paragraphs at the beginning of the report :-

1. Turn off power to park.
2. Verify all areas and homes to ensure complete power shutdown.
3. Investigate any residual power.
4. Examine the solar farm's connection to the main meter.
5. Confirm the separation of solar supply.
6. Verify the main meter, ensuring no x 10 multiplier.

52. The report concluded was that "no additional sources of power were detected on the Tranquility Park Homes site". A display fault was noted with the Main Phase 3 meter and telephone confirmation from National Grid was that the display fault was not indicative of anything which would affect the supply. The report confirmed that the solar power generated was fed into the park supply thorough the clubhouse.

The Tribunal's findings

53. Analysis of the amounts invoiced to the Applicant during the first four billing periods by the Respondent compared with the amounts invoiced by the various electricity suppliers has been provided by the Applicant. During that period more money was invoiced to the Applicant than was paid by the Respondent to its electricity suppliers. However, the comparison is not precise because the charging periods for the Applicant's invoices and the supplier invoices do not match [7 – 10].

54. The parties agreed that the amount the Respondent has charged per kWh unit and that the way that this charge has been calculated is correct and complies with the OFGEM guidelines. Prima facie the evidence discloses no breach of the Electricity Act.

55. The Respondent has neither acknowledged that the sub-meter readings showed a far greater consumption of electricity than was supplied to the Park, nor attempted to reconcile the metred consumption received by it and resold to the Applicant.

56. The Respondent has not investigated why the total amount invoiced to the Applicant each quarter significantly exceeds the bills raised by its electricity suppliers during corresponding periods. Instead, Mr Sunderland stated "There is no dispute by the Applicant that any of the residents has been charged for any more units than has been recorded on their individual meters". Ms Thomson's statement is similarly unhelpful. She said that the question asked by the Applicant was about the calculation of the cost per kWh of electricity used to prepare the invoices. This was nonsensical when Mr Sunderland and the Applicant had already agreed that the calculation followed the OFGEM guidelines [R9].

57. Mr Sunderland's statement does not address whether or not the meter readings are accurate. If the meters are recording more units than have been used the resultant charge will not be correct.

58. Ms Thompson's statement that the sub meters were checked and verified as evidenced in the Electrical report is not true. The electrician was not instructed to check or verify those submeters and the report does not contain evidence to the contrary.

59. Although the Respondent has acknowledged that the readings might be estimated it has not explained if, and how, the estimated readings are converted into verified measurements.

60. The Respondent has not explained how the Park accounts for the cost of the metered electricity supply to its own units or the office. Those meter readings have not been disclosed. The Tribunal can therefore only assume that, during the disputed periods, those electricity costs have, with the knowledge of the Respondent effectively been paid by the Applicant.

61. The Tribunal finds it difficult to believe that the Respondent was not aware that the amount invoiced to the Applicant each quarter exceeded the amount in paid to its electricity supplier for all the electricity consumed on Tranquility Park, which would involve a simple accounting exercise.

62. It is not possible for the Tribunal or indeed the Applicant to make calculations about the amount of electricity consumed by the Respondent's property. However, since the Respondent has stated that the retained units have sub meters it must have that information [R8].

63. The Respondent has not disputed the accuracy of the information about meter readings provided by the Applicant.

64. In **period 1** which is the billing period between **9 September 2022 and 15 November 2022** the Applicant was billed for **9,253** units (kWh) of electricity [7]. NPOWERTQ billed the Respondent for **7,470** units between **1 September 2022 and 31 December 2022** [28].

65. In **period 2** which is the billing period between **15 November** and **16 February 2023** the Applicant was billed for **33,458** units of electricity [8]. NPOWERTQ and OPUS-TQP billed the Respondent for **14,765** units of electricity between **1 December 2022 and 28 February 2023** [35]

66. In period 3 between **16 February 2023** and **15 May 2023** the Applicant was billed for **18,373** units of electricity [9]. OPUS-TQP billed the Respondent for **8,668** units of electricity between **1 March and 31 May 2023** [44].

67. In period 4 between **15 May 2024** and **14 August 2023** the Applicant was billed for **12,279** units of electricity [10]. OPUS-TQP billed the Respondent for **4,737** units of electricity between the **1 June and 30 August 2023** [51].

68. A comparison between the supplier accounts for a year with the amount invoiced to the Applicant for the equivalent period shows that the Respondent has invoiced the Applicant for more than it paid to its

suppliers during the same period. Wyldecrest was charged for **41,465.77** units during this period. It charged the Applicant for **80,138** units. Wyldecrest paid its supplier **£18,014.51** for the thirteen months. It charged the Applicant **£33,485.78** for the four quarters (twelve months). Although the unit costs used by Wyldecrest to calculate the charges relate to the charges made by its electricity suppliers between September 2022 and August 2023 that will not affect the accuracy of the comparison between the electricity (kWh) purchased and the electricity (kWh) charged to the Applicant **(Appendix 2).**

69. The Respondent has not explained to the Applicant or the Tribunal why it has charged the Applicant for so many more units of electricity than it has paid to it suppliers during those periods.

70. The Tribunal has received no evidence from the Respondent that it has ever reconciled the amounts invoiced to the Applicant with the amount paid to its supplier. All Mr Sunderland said was "Any anomaly between the main and sub meters is held as surplus funds in reserve pending updated actual meter readings and the money goes to the electricity provider" [73].

71. The Respondent offered no information with regard to the measurement of the electricity supplied to other property within the Park save for stating that "All residents (chalet holiday or not) are sub metered (top up or credit meters) recording individual usage. Street lighting/office is not included in their individual invoicing". Since the electrical report confirmed that a single meter supplies the park the cost of the electricity consumed by this other property will inflate, not reduce, the amount the Applicant has been overcharged.

72. For the reasons stated above the Tribunal finds that during the identified first four periods the Respondent has charged the Applicant more for supplying it with electricity than it has paid its suppliers. Any adjustment to the amount invoiced by Shell will not be relevant since during this period electricity was supplied by NPOWERTQ and OPUS-TQP.

73. Whilst the overcharge may extend to the period between November 2023 and February 2024, legible invoices for the entirety of that period were not disclosed so the Tribunal cannot make evidential conclusions about the charges.

74. From the limited information disclosed in the bundle it is likely that the amount invoiced to the Applicant will exceed the amount paid by the Respondent to its supplier, despite the information supplied by the Respondent confirming undermeasurement of consumption by the main meter in the early part of 2024.

75. Without more information the Tribunal is unable to find that the Respondent has necessarily acted in contravention of the Electricity Act. Whilst there is no evidence that the Respondent has attempted to reconcile the amount it has paid to its suppliers with the amount it has invoiced the Applicant, the Respondent was not asked to disclose, nor

has it, the amount held in reserve. If, as would be appropriate, that sum has been appropriately documented and held in reserve for the benefit of the Applicant, the Respondent may not have breached the provisions of the Electricity Act.

76. The Tribunal questions why the Respondent, until the publication of the electrical report failed to disclose to the Applicant that the Park electricity supply to the Applicant's property, the Respondent's other properties, the office and the street lighting. is measured by a single meter.

77. The Tribunal also questions why the Respondent, which Mr Sunderland stated "followed the letter of the (OFGEM) guidelines" made no attempt to reconcile the amounts it collected from the residents in electricity charges with the amounts paid to its suppliers.

78. Notwithstanding the assertions made by the Respondent to the contrary (see paragraph 31)[72], the Tribunal has authority under section 232 of the Housing Act 2004 to make an order directing that the Respondent pay a sum of money to the Applicant, to refund an overpayment.

79. However, on the basis of the information disclosed it is impossible for the Tribunal to calculate the amounts overpaid. Whilst the Tribunal is satisfied that the Applicant has paid more for electricity than the Respondent has paid its supplier, the amount of that overpayment might increase when the amount (and cost) of electricity supplied to other properties is disclosed. Only the Respondent can make this calculation by referring to its sub meter readings.

80. The Respondent's submissions to the Tribunal, do not reveal that it made any attempt to investigate or address the Applicant's complaints. Instead, Mr Sunderland has made unnecessary submissions suggesting that any discrepancy with regard to the amounts paid by the Applicant is a timing issue (paragraph 33 of his statement) [73]. His reference to the Santer case is unhelpful because the issues identified in that case related to discrete water charges, billed in arrears.

81. Mr Sunderland also stated that the Applicant's do not dispute the number of units billed. His statement is misleading. The data tables supplied by the Applicant showed that the units billed by the Respondent (during the relevant periods) were far in excess of the units billed to the Respondent by its supplier which is the reasons for this application. Clearly therefore the Applicant is disputing that the meter readings are a correct measurement of the units of electricity consumed by the Applicant because they exceed the number of units supplied to the entire Park during the equivalent period.

Answers to the Applicant's questions
Has the Applicant been overcharged

82. The Tribunal finds that the Respondent has charged the Applicant more for electricity than it has paid its supplier.

83. The Tribunal does not find that the Respondent is necessarily in breach of the Electricity Act. The Applicant referred to section 44 which gives the Authority (currently the Gas and Electricity Markets Authority) jurisdiction to publish directions requiring anyone who is reselling electricity to:

    a. Furnish the purchaser with specified information, and

    b. Provide, if it should fail to do so, the maximum price applicable to the resale shall be as specified in the direction or reduced by such amount or such percentage as specified in it.

84. The Respondent has failed to disclose, until now, that its submeters estimate the cost of electricity consumed. The Respondent has failed to either address, follow or comply with the OFGEM guidelines regarding over/undercharging and refunds**.**

Calculation of the overcharge and reimbursement

85. The Tribunal directs the Respondent to:

    a. Provide the Applicant with a reconciliation of the sums invoiced to the Applicant for electricity, with the sum paid to its electricity suppliers between 1 November 2022 and 30 November 2023 (13 months) and thereafter calculate an appropriate allowance for the electricity supplied to its other property (relying on the relevant sub meter readings which it has stated it records). The difference between the amount paid to the electricity supplier and the amount invoiced to the Applicant (less an allowance for the supply to the Respondent's other property) shall be set out in written calculations and provided to the Applicant who shall confirm within 7 days of receipt stating if the amount is agreed. If the amount is agreed it must be repaid to the Applicant within 28 days of the date of this decision, and in any event, no later than three months from the date of this decision.

    b. Identify the adjusted amount due to the electricity supplier (Shell) for the period between 1 December 2023 and 29 February 2024 and disclose copies of the adjusted (reissued) invoices from Shell to the Applicant. Thereafter, the Respondent shall prepare a reconciliation of the sums paid to Shell for the electricity supplied by it during that period with the amount invoiced to the Applicant (making an allowance for the supply to the Respondent's other property) which shall be set out in written calculations and provided to the Applicant who shall respond within 7 days of receipt whether if the amount is greed. If the amount is agreed it must be repaid to the Applicant within 28 days from the date of this decision, and in any event no later than three months from the date of this decision .

    c. If the Applicant and the Respondent cannot agree the Respondent's calculations the Applicant shall apply to this Tribunal for it to determine the amount of the overcharge. Such

application must be made promptly and no later than 14 days after the calculations are received by the Applicant.

86. The Tribunal directs the Respondent to provide the Applicant with copies of the certification specified in paragraph 5 of Schedule 7 of the Electricity Act 1989 for each meter used to measure the Applicant's electricity supply and each meter uses to measure the supply provided to other properties on the Park.

87. The Tribunal recommends that, in order to avoid further applications to the Tribunal, the Respondent henceforth undertake an annual reconciliation of the consumption of electricity on the Park (and the amount invoiced by its suppliers) with the consumption and cost of the electricity invoiced to the Applicant and the consumption and cost of electricity used by its other property within the Park to enable it to comply fully with the OFGEM guidelines.

Tribunal Fee

88. The Applicant asked the Tribunal to make an order for the reimbursement of its application fee of £100. The Tribunal has jurisdiction to make such an order under Rule 13(2) of The tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules). It orders the Respondent to reimburse the application fee of £100 to the Applicant within 28 days of the date of this decision.

Costs

89. This tribunal has no general jurisdiction with regard to costs, save and except in relation to "unreasonable costs" under Rule 13 of, which the Tribunal may award on a discretionary basis.

90. The jurisdiction is well documented by case law and the test for whether or not the Tribunal should exercise its discretion is set out in **Willow Court Management Company (1985) Ltd v Alexander [2016] UKUT 290 (LC)**. Should either side decide it has grounds to make such an application it should be made within 28 days of the date of this decision.

APPENDIX 1

Extract from the MHA

4.— Jurisdiction of a tribunal or the court [...]2
(1) In relation to a protected site [...]2 , a tribunal has jurisdiction—
(a) to determine any question arising under this Act or any agreement to which it applies; and
(b) to entertain any proceedings brought under this Act or any such agreement,
subject to subsections (2) to (6).
(2) Subsection (1) applies in relation to a question irrespective of anything contained in an arbitration agreement which has been entered into before that question arose.
(3) In relation to a protected site [...]2 , the court has jurisdiction—
(a) to determine any question arising by virtue of paragraph 4, 5 or 5A(2)(b) of Chapter 2, or paragraph 4, 5 or 6(1)(b) of Chapter 4, of Part 1 of Schedule 1 (termination by owner) under this Act or any agreement to which it applies; and
(b) to entertain any proceedings so arising brought under this Act or any such agreement,
subject to subsections (4) to (6).
(4) Subsection (5) applies if the owner and occupier have entered into an arbitration agreement before the question mentioned in subsection (3)(a) arises and the agreement applies to that question.
(5) A tribunal has jurisdiction to determine the question and entertain any proceedings arising instead of the court.
(6) Subsection (5) applies irrespective of anything contained in the arbitration agreement mentioned in subsection (4).

Extracts from the Housing Act 2004

231A.— Additional Powers of First-tier Tribunal and Upper Tribunal
(1) The First-tier Tribunal and Upper Tribunal exercising any jurisdiction conferred by or under the Caravan Sites and Control of Development Act 1960, the Mobile Homes Act 1983, the Housing Act 1985 or this Act has, in addition to any specific powers exercisable by them in exercising that jurisdiction, the general power mentioned in subsection (2).
(2) The tribunal's general power is a power to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue in or in connection with them.
.....
(4) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by the tribunal under its general power include (where appropriate)—
(a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;
(b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as may be specified in the directions;

(c) directions requiring cleaning, repairs, restoration, re-positioning or other works to be carried out in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions;
(d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions.
(5) In subsection (4)—
"mobile home" and *"protected site"* have the same meaning as in the Mobile Homes Act 1983 (see section 5 of that Act);
"pitch" has the meaning given by paragraph 1(4) of Chapter 1 of Part 1 of Schedule 1 to that Act5;
"pitch fee" has the meaning given in paragraph 29 of Chapter 2, paragraph 13 of Chapter 3, or paragraph 27 of Chapter 4, of Part 1 of Schedule 1 to that Act, as the case may be.

Extract from the Electricity Act 1989
44.— Maximum prices for reselling electricity
(1) The Authority may from time to time direct that the maximum prices at which electricity supplied by authorised suppliers may be resold–
(a) shall be such as may be specified in the direction; or
(b) shall be calculated by such method and by reference to such matters as may be so specified;
and shall publish directions under this **section** in such manner as in its opinion will secure adequate publicity for them.
(2) A direction under this **section** may–
(a) require any person who resells electricity supplied by an authorised supplier to furnish the purchaser with such information as may be specified or described in the direction; and
(b) provide that, in the event of his failing to do so, the maximum price applicable to the resale shall be such as may be specified in the direction, or shall be reduced by such amount or such percentage as may be so specified.
(3) Different directions may be given under this **section** as respects different classes of cases, which may be defined by reference to areas or any other relevant circumstances.
(4) If any person resells electricity supplied by an authorised supplier at a price exceeding the maximum price determined by or under a direction under this **section** and applicable to the resale–
(a) the amount of the excess; and
(b) if the direction so provides, interest on that amount at a rate specified or described in the direction,
shall be recoverable by the person to whom the electricity was resold.
]1

Authority means the Gas and Electricity Markets Authority (added by Utilities Act 200)

Appeals

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.