

26 June 2024

Department of Climate Change, Energy, the Environment and Water
12 Darcy Street
Parramatta NSW 2150
By email: energy.consumerpolicy@dpie.nsw.gov.au

Energy Consumers Australia Submission to the Department of Climate Change, Energy, the Environment and Water, regarding the NSW Independent Pricing and Regulatory Tribunal (IPART) Final Report on the future of embedded networks in NSW.

Energy Consumers Australia appreciates the opportunity to provide comment on IPART's Final Report on the future of embedded networks in NSW for the Department of Climate Change, Energy the Environment and Water's consideration.

As the national voice for residential and small business energy users, Energy Consumers Australia advocates for a future Australian energy system that works for, and benefits, the households and small businesses who use it. This includes the diverse range of consumers who find themselves living and working within embedded networks. People living in apartment blocks, retirement villages, caravans parks, social housing, and small businesses operating in shopping centres and office blocks are just some of the consumer types that receive their energy under embedded network arrangements.

As noted in our previous submissions to the IPART consultation process¹ we are broadly supportive of the recommendations outlined in the final report. However, this support, is directly related to the scope of IPART's review and the specific recommendations outlined in the final report. It is not an endorsement of the embedded network service model in its entirety. On the contrary, we hold significant concern around the regulatory disparities, reduced agency and lack of protections that consumers in embedded networks experience.

The areas that most concern us include:

1. Consumer protections for embedded network customers
2. Broader communications and information requirements

The following submission will unpack these two primary concerns in more detail, to bring to light the broader issues and challenges of embedded networks that were outside the scope of IPART's review. The submission will also provide direct commentary on IPART's final report for the Departments consideration in their own response to the report's recommendations.

CONSUMER PROTECTIONS

In principle, all households and small businesses should be awarded the same consumer protections regardless of their energy supply arrangements. However, in practice, we understand that this is not always practical or cost effective, and the risk of enforcing equal protections under the NECF for embedded network customers, could result in additional costs being passed on to consumers who are already more likely to be under financial pressure or low income (living in retirement villages, social housing etc.) With the growing number of embedded networks in NSW and with more households and small businesses being supplied under this arrangement, we consider it timely to review the protection consumers in embedded networks receive with clear justifications to any exclusions comparable to the NECF, based on a robust cost benefit analysis. Reviewing current consumer protection regulation

¹ [ECA Submission to IPART regarding embedded networks \(2024\)](#)

ensures that there is a clear explanation and rationale around the exclusions of particular protections. It would also identify opportunities to apply protections in part, even if they may not be able to be applied in full.

Reviewing consumer protections and how they are applied in embedded networks is needed, not only to highlight consumer detriment or harm that stems from a lack of robust regulatory protections, but also to bring to light the missed opportunities many consumers face simply due to their supply arrangement. For example, embedded network customers are currently required to apply to receive energy rebates, essentially having to 'opt in' via the embedded network on-seller. Without clear and transparent information and support from the on-seller to complete the application process, many customers in embedded networks may miss out on rebates they are entitled to including the recently announced energy bill rebate². This inequity in outcomes needs to be addressed and rectified if we are to work towards a future where embedded network customers receive protections *and* opportunities, comparable to on market customers.

BROADER COMMUNICATIONS AND INFORMATION REQUIREMENTS

Clear communication and information regarding embedded networks needs to be delivered effectively both before a household or small business enters into contract arrangements, as well as while they are under such supply arrangements.

Anecdotally we are hearing that often, customers are unaware they have entered into embedded network supply arrangements until it is too late and contracts have been signed. We believe, information around embedded networks and the implications for future energy choices needs to be clearly communicated to households and small businesses early in the lease contracting phase. This will help to reduce confusion and frustration later down the line.

Additionally, all households and small business should be aware of their rights and obligations to access concessions and external dispute resolution schemes once they are in an embedded network. Due to the unique challenges and barriers consumers under embedded network arrangements face, we believe they should get proportionately greater information regarding access to concessions and external dispute resolution schemes (ombudsman) which should be communicated to all households and small businesses in embedded networks regularly (every 6 months). It is essential that this information is clear, in plain language, transparent, concise and separate to customer energy bills. Increasing access to this information is necessary to ensure consumers are accessing the supports that are available to them.

The following section will provide direct commentary on IPART's final report.

IPART'S FINAL REPORT: THE FUTURE OF EMBEDDED NETWORKS IN NSW

As mentioned in our previous submissions to this consultation,³ we are pleased to see the Default Market Offer (DMO) deemed an inappropriate price mechanism for electricity embedded networks. Embedded network consumers do not have access to retail competition and embedded network service providers have fewer costs related to customer acquisition and retention. As both these factors are key elements in designing and setting the DMO, but do not necessarily apply to embedded networks, the maximum price for embedded network customers *must* be lower than the DMO.

We are also pleased to see IPART's recommendation to bill hot water in units of energy as we believe this will support better facilitation of NECF arrangements in the future and is a much better approach from a consumer protection perspective, compared to billing in litres of water.

² [New power bill relief | Ministers \(dcceew.gov.au\)](#)

³ [ECA submission to IPART regarding embedded networks \(2023\)](#)

While we welcomed the introduction of a consideration for arrangements for solar in embedded networks. Our recommendation regarding this approach is to broaden beyond solar to include all forms of consumer energy resources (CER) including EV and demand response. This ensures that consumers in embedded network arrangements are not disadvantaged or excluded from engaging in the range of CER available to on-market customers now and into the future.

Extending ombudsman access

We were pleased to see ombudsman access be extended to small business customers. We believe all households and small businesses should be given access to ombudsman services, regardless of their supply arrangement. Our Power over their Power research⁴ revealed the numerous challenges small business face being part of an embedded network such as restricting small business's ability to make modification to energy access, install energy efficient equipment or change providers. This limits their ability to effectively adapt to the changing energy landscape. Many small businesses are also unaware of these limitations and restrictions when entering into an embedded network arrangement and are largely unsupported in their fight when trying to extract themselves. Additionally, COSBOA's recently released research Small Steps, Bright Future⁵, funded through our grants program reveals 62% of small businesses who have experienced financial hardship paying their energy service over the last 12 months operate within a shopping centre or embedded network.

Given the challenges small businesses face when operating from an embedded network arrangement, this recommendation is a welcomed opportunity to ensure small business consumers have access to effective support and dispute resolution schemes.

Proposed pricing methodology

Although we support the proposed pricing methodology in principle, as we have outlined in our previous submissions⁶, it is our view that the proposed pricing methodology should be amended to reflect the average of the three lowest retail offers being advertised on the Australian Energy Regulatory (AER) Energy Made Easy website. This is on the basis of ensuring offers represent the lower end of the spectrum rather than the 'middle' given that these customers fundamentally cannot engage in the market to secure a better or lower deal.

We also suggest that rather than a five-year review of the proposed pricing methodology (as suggested in the report), IPART undertake a review after 1-2 years to test whether the approach taken is the most appropriate and is delivering the expected consumer outcomes and benefits. Moving this review period forward ensures that the implemented changes are delivering as expected, and if not, can be remedied sooner rather than later.

Compliance and enforcement

Ensuring exempt network operators are meeting their obligations is essential to protect the rights and interests of consumers under this supply arrangement. If exempt network operators are not complying with their obligations, consumers will be directly affected. For example, if there is a lack of clear information regarding fees and charges consumers may experience unexpected bills and fees contributing to financial stress and pressure. If they are unaware of their right to access external dispute resolution schemes they may face difficulties in getting assistance with disputes leading to frustration and dissatisfaction. Robust and effective monitoring is critical to ensure industry compliance and thus ensure consumers are being given the protections that they are entitled to. Without this mechanism, it will remain unclear to what extent embedded network operators are meeting their consumer protection obligations outlined in the exemption guidelines. It is our view that a proactive

⁴ [Power over their Power Report \(2024\)](#)

⁵ [Small Step, Bright Future \(2024\)](#)

⁶ [ECA Submission to IPART regarding embedded networks \(2024\)](#)

approach to compliance and enforcement, rather than a complaints-based framework, would ensure the best outcome for consumers however understand that this requires significant resources to enact effectively.

Data arrangements

We are pleased to see the intent of collecting data, specifically around price and addresses of embedded network arrangements. We recommend that the documentation of this data be consolidated in one location such as the regulators website rather than the embedded network operators website. This approach would support effective data collection and analysis, which is long overdue for embedded network arrangements. We also suggest considering the Public Interest Advocacy Centre (PIAC's)⁷ recommendations on the type of data that needs to be collected on embedded networks including:

- How many embedded networks (defined by number of parent connection points) are operated by the exempt entity and the total number of consumers they manage services for
- What business structures are in operation,
- What services are provided (whether there are renewable energy or other benefits for consumers and their impact on all effected consumers),
- Other key consumer outcomes including billing, payment assistance and protections, usage, disconnection and access to EWON

This type of data is essential if we are to increase the transparency of such arrangements and their growth in NSW and to ensure these customers are adequately informed and protected.

Various external pressures faced by households and small businesses such as the current cost of living crisis, high energy bills and the broader transformation to an energy system that is largely reliant on renewable energy resources, further reiterates the importance of consumer choice, agency and flexibility around their energy. Given the growing rate of embedded networks in NSW, and the challenges consumers are facing now and will continue to face in the future, should we continue to see new embedded networks come into the market, it is important that these arrangements are demonstrably better for consumers. In practice this means robust data collection, a review of the consumer protections for embedded network customers based on a recent cost benefit analysis, an effective compliance and enforcement framework, and a requirement as part of the registration process, the ability to demonstrate clear, empirical evidence of direct and ongoing consumer benefit which extends beyond hypothetical scenarios and presumption, and be based in robust data, analysis and modelling.

Thank you for the opportunity to provide our feedback. If you have any questions or comments about this submission, or require further detail, please contact Taneesha Amos-Hampson (Policy Officer) at taneesha.a@energyconsumersaustralia.com.au.

Yours sincerely



Dr Brendan French
Chief Executive Officer

⁷ [PIAC's submission to the review of the AER exemptions framework for embedded networks](#)