

DRAFT TERMS OF REFERENCE

The future of embedded networks in NSW

I, the Hon. Victor Dominello MP, Minister for Customer Service, under section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), request the Independent Pricing and Regulatory Tribunal (IPART) to investigate and report on embedded network issues in NSW in accordance with this draft Terms of Reference.

Context

Embedded networks are private energy networks for services such as electricity, hot water and gas. They serve multiple customers and are connected to another distribution or transmission system in the national grid through a parent connection point. Embedded networks are typically found at more recent residential developments, shopping centres, caravan parks and other lease communities where a person owns their home but leases the land where the home sits from a community operator.

Embedded networks may be established with the aim of producing cost effective energy solutions for owners or residents. These can be realised if the embedded network supplier is able to secure discounted bulk energy prices and/or supply residents with energy generated on site (for example, using solar panels). However, as embedded networks have evolved, regulatory gaps in the customer protection frameworks have emerged. For example, hot and chilled water embedded networks can fall outside the current definitions for energy and therefore outside the relevant consumer protections under state and national laws. There is evidence of hot and chilled water embedded network customers receiving unreasonably high bills, with limited avenues for dispute resolution. Customers in embedded networks have limited access to retail competition and competitive market forces to put downward pressure on prices.

The NSW Government has committed to introducing a maximum price for the sale of hot and chilled water and gas services to small customers in embedded networks.

The task

The Tribunal should investigate and make recommendations on:

Hot and Chilled Water

- 1) An appropriate methodology or methodologies for IPART to use in setting maximum prices for hot and chilled water supplied through embedded networks.
- 2) Whether new embedded networks for hot and chilled water should be prohibited in NSW.

Gas

- 3) An appropriate methodology or methodologies for IPART to use in setting maximum prices for gas supplied through embedded networks.

Electricity

- 4) Whether the Commonwealth Government's Default Market Offer is the appropriate maximum price for electricity embedded networks, or whether a different method should be used to determine the maximum price for electricity embedded networks.

Compliance and enforcement

- 5) The compliance and enforcement framework for any new price protections.

Relevant considerations

The Tribunal's recommendations should be those that the Tribunal considers best contribute to the national energy objectives.¹

In undertaking this task, the Tribunal should, where relevant, take account of:

- a) the efficient and competitive costs of providing the relevant services
- b) statutory and legal obligations, including conditions imposed by the Australian Energy Regulator (AER) when issuing registration exemptions²
- c) the short and long term outcomes for customers in embedded networks, including how they compare to other electricity and gas customers (with a direct parent connection point to the grid)
- d) the benefits available to customers in embedded networks, including opportunities or limitations for embedded networks to support innovation and sustainable technologies
- e) the financial impacts on customers and existing embedded network providers
- f) effectiveness, practicality, benefits and costs associated with compliance and enforcement options, including cost recovery considerations
- g) recent reviews of embedded networks
- h) transitional issues as a result of IPART's recommendations
- i) any other matter the Tribunal considers relevant.

The process

IPART is required to provide a final report to the NSW Government within 9 months of the terms of reference being finalised.

IPART is required to publicly consult in undertaking this investigation, including publishing a draft report for comment prior to finalising its final report. IPART may undertake any other consultation, including targeted consultation, that it considers appropriate.



The Hon. Victor Dominello MP

Minister for Customer Service and Digital Government
Minister for Small Business
Minister for Fair Trading

Date: 01/03/23

¹ The National Electricity Objective, the National Gas Objective and the National Energy Retail Objective, as set out in the National Electricity Law, the National Gas Law and the National Energy Retail Law and, to the extent they are not otherwise captured, equivalent objectives for hot and chilled water.

² See AER, Electricity Network Service Provider – Registration Exemption Guideline and AER – Retail Exempt Selling Guideline.