

13 September 2023

Albert Jean
Principal Analyst
Independent Pricing and Regulatory Tribunal
By email: [REDACTED]

Submission to the Independent Pricing and Regulatory Tribunal's Energy prices in embedded networks industry consultation paper

Dear Albert,

Energy Consumers Australia welcomes the opportunity to provide comment on the Independent Pricing and Regulatory Tribunal's (IPART) *Energy prices in embedded networks* industry consultation paper.

Energy Consumers Australia is the national voice for residential and small business energy consumers in the National Energy Market. We were established in 2015 by Energy Ministers to promote the long-term interests of energy consumers with respect to price, quality, safety, security, and reliability of supply.

As the number of residential and small business consumers living in embedded networks grows, the issue of how to ensure these consumers have adequate protection and access to affordable energy as an essential service is growing too. IPART's review is one of many occurring nationally to better understand the experiences of embedded network consumers and the appropriate regulation required.

IPART's review is an important step in ensuring consumers in embedded networks have access to consumer protections that are equal to consumers in the competitive retail energy market. When reviewing how energy prices for embedded network consumers are set, and the benefits and risks of hot and chilled water embedded networks, it is our view that:

- Any criteria used to assess potential methods for setting maximum prices should prioritise ensuring consumers have access to affordable and reliable energy,
- The maximum price for electricity should be lower than the Default Market Offer prices,
- Consumers in hot and chilled water embedded networks should have access to the same degree of protections as consumers already protected under the National Energy Customer Framework; and,
- Changes to regulation should be considered within the broader national context.

Any criteria used to assess potential methods for setting maximum prices should prioritise ensuring consumers have access to affordable and reliable energy

Setting the maximum price for energy in embedded networks will require several factors to be considered, as outlined in the consultation paper. We believe that the methodology used to set maximum prices should prioritise consumers having access to a reliable source of energy at an affordable price.

We know from our research that affordability is the priority when consumers think about the future energy system. Over half of households in our June 2023 [Energy Consumer Sentiment Survey](#) said that having affordable energy prices for all Australians was the most important issue for Australia's energy system, significantly above all other issues including the transition to renewables and ensuring resilience against extreme weather.

The criteria outlined in IPART's paper should include an additional criterion that explicitly states the need to protect consumers from unreasonable prices. This will make clear, when considering the balancing of different objectives, that the purpose of a maximum price is to ensure consumers have access to a fair price for an essential service.

The remaining criteria outlined in the paper should be framed in a way that prioritises delivering good consumer outcomes. For example, it is unclear why there is a need to "incentivise customers and embedded network operators to supply and use energy efficiently". Energy efficient homes and businesses are important as they provide improved and more affordable access to a comfortable and healthy working or living space. However, including the need to incentivise customers to use energy efficiently as a key consideration when setting maximum prices could result in people over restricting their energy use, resulting in poor health and wellbeing outcomes. Our qualitative research has shown us that consumers are already going to extreme lengths to limit their energy use to deal with the rising cost of energy. Further, many cohorts are unable to shift when they use energy, for example small businesses who are limited by their business hours and the appliances needed to provide their services to customers.

The criteria that any methodology "should be able to respond to changes in the costs of supplying customers" should consider consumer wants and needs as the priority. Our [research](#) into consumer pricing preferences revealed that consumers, particularly small businesses and financially vulnerable consumers, value consistency in their energy bills. When considering how frequently a maximum price should be set, IPART should prioritise delivering a consistent approach that limits any frequent or major change to the prices consumers pay.

The Default Market Offer (DMO) is currently set once a year. We see little reason that the price for embedded networks should be set any more frequently, particularly as having a consistent and guaranteed number of customers (who are frequently unable to switch retailer) means embedded network providers are in a position where they can recover any significant changes the following year.

[The maximum price for electricity should be lower than the Default Market Offer](#)

The Australian Energy Regulator considers three objectives when setting the DMO¹. One of these is that the DMO must be set high enough to allow for competition and to incentivise consumers to engage in the market. This is not relevant to an embedded network as there is no retail competition and consumers cannot engage in the market in most cases. Therefore, the additional headroom included by the AER is not necessary.

¹ Australian Energy Regulator, [Default market offer prices 2023-24 Final Determination](#), May 2023, p. 2.

The objectives for the DMO also set out that it should allow retailers to recover their efficient costs of providing services. As embedded network providers are able to purchase energy at a bulk rate², these costs are lower than retailers outside of embedded networks. And as embedded network providers have access to a guaranteed number of customers over a long period of time, they have less costs related to risk or to customer acquisition and retention.

Therefore, the maximum price paid by consumers in embedded networks should be lower than the default market offer. It should be more in line with what an engaged customer with access to retail competition is paying. Within the spectrum of market offers available, it should arguably be on the lower end considering embedded network providers have lower costs.

Consumers in hot and chilled water embedded networks need access to the same degree of protections as consumers already protected under the National Energy Customer Framework

Access to energy is essential and this is true of all the services it provides, including access to hot water. However, customers in hot and chilled water embedded networks that are billed on a per litre basis do not currently have access to the same consumer protections as those who are billed based on the energy used to heat water. Access to robust consumer protections is of particular significance for embedded network customers as they cannot choose to switch to a new retailer if they are unhappy with the service provided.

The lack of consumer protections has resulted in serious consumer harm, with the NSW Government's [inquiry](#) finding that some customers in hot and chilled water embedded networks were facing "outrageous hot water charges". The Energy and Water Ombudsman has noted that consumers experiencing vulnerability do not have appropriate protections as energy specific affordability protections are diminished for hot water costs³.

We also note that many small businesses are part of an embedded network and the risks of hot and chilled embedded networks may be of increased relevance to them. This is particularly true for businesses requiring greater usage of hot water, for example hairdressers.

To prevent unreasonably high prices and ensure all energy consumers have access to fulsome consumer protections, IPART should investigate how energy consumer protections can be extended to hot and chilled water services.

Changes to regulation should be considered within the broader national context

The differing regulations across jurisdictions not only add complexity for advocates and stakeholders attempting to engage in multiple, diverse review processes, they also add complexities for consumers. Consumers may have different protections depending on their jurisdiction, making it difficult to understand what rights they have access to, what they should expect from their retailer or embedded network operator, or where to go for help. This is particularly true for consumers in cross-border towns, who may have premises or trade in multiple jurisdictions.


² Australian Energy Market Commission, [Updating the Regulatory Frameworks for Embedded Networks Final Report](#), June 2019, p. 21.

³ Energy & Water Ombudsman NSW, [Spotlight on hot water embedded networks](#), March 2021.

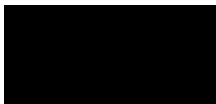
NSW is far from the only state investigating how to manage an increasing number of embedded networks and the issues associated with them. The multiple reviews underway offer an opportunity for jurisdictions to share learnings and work towards a regulatory regime that is consistent across jurisdictions. The ACT, as one example, has recently conducted a [Review of Embedded Networks](#) which made several recommendations, including in relation to setting a reference price, setting a maximum price for hot water and equalising consumer protections for hot water consumers in embedded networks.

This message also applies to the enforcement of any maximum price. How a maximum price is enforced should be consistent across jurisdictions and it should be proactive in its approach, rather than waiting for complaints to alert regulators to when there is an issue.

We encourage IPART to consider what is happening beyond NSW and the opportunities for this review to contribute to a more consistent regulatory regime Australia-wide.

Energy Consumers Australia appreciates the work being undertaken by IPART to ensure that consumers in embedded networks have reliable access to an essential service at an affordable price. This is a longstanding issue that continues to grow in importance, and we look forward to further engaging in the consultation process. In the meantime, if you have any questions regarding our submission, please do reach out to .

Yours sincerely,



Jacqueline Crawshaw
Interim Chief Executive Officer