

**Submission
No 29**

EMBEDDED NETWORKS IN NEW SOUTH WALES

Organisation: Tenants Union of NSW

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About the Tenants' Union of NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 25,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union NSW is a member of the National Association of Tenant Organisations (NATO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

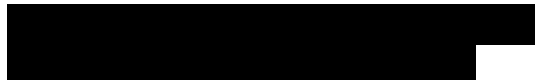
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The Tenants' Union of NSW' office is located on the unceded land of the Gadigal of the Eora Nation.

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About this submission

The Tenants' Union of NSW welcomes the opportunity to provide a submission to the Committee on Law and Safety for their Inquiry on Embedded networks in NSW.

Despite a number of reviews of the regulatory arrangements for embedded networks, including by the Australian Energy Market Commission, the current regulatory system leaves embedded network consumers in a weaker position compared with consumers on standard supply contracts. They can find themselves locked into uncompetitive pricing arrangements, and generally have access to considerably less information and fewer protections.

In this submission we highlight the impact on renters who are required to sign up to an embedded network when they enter into their rental agreements, including tenancy and site agreements. This includes:

- renters in strata complexes with embedded networks for power and/or water supply
- residents of Residential Land Lease Communities (renters, and home owners who rent a site in the community).

We consider the structural disadvantage these residents and renters face in relation to:

- The need to improve outcomes for renters and residents in embedded networks
- Lack of disclosure
- Cost of energy: billing and price
- Infrastructure and supply
- Data
- Dispute resolution
- Hardship supports

We have also viewed the submission prepared by the Public Interest Advocacy Centre (PIAC). We support their submission, and in particular endorse their recommendations on the need to consider unwinding existing embedded networks and exempt selling arrangements to ensure equality of outcomes for all NSW residents, regardless of where they reside.

PIAC provides convincing evidence that current embedded networks and exempt selling arrangements are not framed around consumer outcomes but instead prioritise “the relative priorities and business structures of the provider of energy over the needs of consumers and their rights to equality of access to affordable and efficient supply, with equal access to supports and protections.”

The current separate framework of provider obligations and consumer protections for embedded networks and retail exemptions has led to an inequality of service for many

relying on embedded networks, leaving them, PIAC notes, “materially disadvantaged and more vulnerable.”

This accords with much of what we have seen in relation to outcomes for consumers in embedded networks, especially residents of Residential Land Lease Communities.

Our recommendations (to follow) should be considered as providing essential protections if unwinding does not take place. If unwinding does occur, our recommendations still work to provide a complementary safety net of protections for residents and renters in relation to access to energy and other essential services.

Summary of recommendations

Recommendation 1: Renters involvement in contract renegotiation

Consider how strata scheme legislation can provide for greater participation of renters in strata decision making in particular in relation to reviewing and considering entering into a new utility contract in embedded networks.

Recommendation 2: Disclosure

Require disclosure of services in embedded networks at the point of listing (advertising) for rental properties and operators in RLLC to include in disclosure statements and site agreements.

Recommendation 3: Fair application of charges for all residents

The Residential Land Lease Communities Act should provide that the method of charging home owners for electricity also applies to renters.

Recommendation 4: Calculation of charges - separate use and supply charges

Electricity use and supply charges should be separate.

Recommendation 5: Reforms to methods of calculating charges

Urgently implement legislative reforms to calculation of energy charges for residents of Residential Land Lease Communities in line with agreed methods developed in consultation with stakeholders during statutory review.

Recommendation 6: Billing - information provided

Relevant legislation covering tenancy or site agreements require landlords or operators to provide a range of basic, essential information on their utility bill if seeking to recover costs from a renter or resident.

Recommendation 7: Billing - consistency in billing in the RLLC Act

The *Residential Land Lease Communities Act 2013* requires operators to bill home owners at least every three months and prohibits operators from recovering charges that were not requested within three months of the operator being billed by their utility service provider.

Recommendation 8: Billing - consistency in billing in the RTA

The *Residential Tenancies Act 2010* requires landlords to bill renters at least every three months for all utilities (where charges apply) as they do with water charges at section 39.

Recommendation 9: Billing in hot water embedded networks

Sale of hot water in embedded networks should be billed in the underlying source of energy rather than as a hot water product.

Recommendation 10: Maintain and upgrade infrastructure

Embedded network providers, including exempt sellers such as operators of Residential Land Lease Communities, be required to maintain and upgrade where necessary the infrastructure to ensure the safe and reliable supply of essential services to residents (including electricity) as part of their operations.

Recommendation 11: Data - number of networks and consumers

The NSW Government should collect and monitor information on the location and type of embedded network as well as the number of customers in embedded networks, this should include information about tenure (i.e. the number of renters and residents of RLLC) in embedded networks.

Recommendation 12: Data - child connection points

Data on child connection points should be reported to the AER, and reporting should include the age and types of child meters within the embedded network, and the level of energy supplied to those meters.

Recommendation 13: EWON membership

Escalating penalties should be introduced for exempt entities if they do not comply with requirements to become members of EWON.

Recommendation 14: Facilitating access to assistance

The RLLC Act should require receipts to be in a format that enables residents to access rebates and EAPA.

Recommendation 15: Access to assistance (EAPA)

The NSW government should consider how EAPA vouchers might be made available to embedded network consumers.

Recommendation 16: Hot water embedded network operators

Hot water embedded network operators should be required to obtain a WICA licence.

1. Improving outcomes: ensuring access to reliable, safe energy at competitive prices

Embedded networks - where the contract for supply of electricity or other services is held by the owner or operator of a building, or the Owners' Corporation, and then is onsold to residents - is becoming a feature of more and more strata complexes, and have been part of Residential Land Lease Communities (RLLC) for a long time. In theory, these arrangements should allow negotiation of a better deal with the retailer because they allow consumers to 'buy in bulk'. This can happen. However, unfortunately for some renters and residents in land lease communities, being in an embedded network can end up costing them far more for their energy.

Currently, embedded network operators have significantly fewer consumer information and protection obligations than authorised retailers. Stronger regulatory arrangements are required, both in terms of national energy law and regulation, but also through the state level legislation covering the housing and energy arrangements for consumers. This includes tenancy legislation and strata scheme legislation.

Reforms to improve regulation of embedded networks and protections offered to consumers, with a focus on achieving better outcomes in relation to:

- uncompetitive pricing arrangements; including methods of calculation of charges
- access to information about charges and supply
- consistency in billing
- stronger protections and safeguards in relation to safety and reliability of energy and other utility service supply through embedded networks
- better visibility over embedded networks and embedded network consumers.

2. Lack of choice and uncompetitive pricing

2.1 Lack of choice and explicit informed consent for Residents in RLLC

Residents of Residential Land Lease Communities (RLLC) in embedded networks are a captive market as they have no opportunity to choose providers. They can't go to market and get a different deal as the infrastructure is not available in many communities especially older ones.

In recent years operators have been systematically and unlawfully overcharging for electricity. Since late 2018, and after legal action taken by residents, including through the Supreme Court of NSW, the parameters for electricity charges have been set out in the 'Reckless method' (named after the resident who challenged her operator's unlawful practice, see further discussion below). This method provides clear guidance on calculating electricity charges for homeowners on embedded electricity networks, at least until reforms around energy charges are made to the *Residential Land Lease Communities Act 2013* (NSW) (RLLC Act).

However, there are a number of operators who in response to getting caught out handed over their network to Humenergy. This resulted in higher electricity charges for residents as Humenergy - being an energy retailer - were not required to comply with the RLLC Act. Those home owners no longer get the benefit of the limits on how much they can be charged under the RLLC Act.

The bill from Humenergy now includes a supply charge and these residents are paying \$520 a year more than they would under the Reckless method for electricity charges.

One home owner in this situation says

"[Our previous operator] notified residents they had changed the management of the embedded network electricity supply to an external provider, Humenergy. There was no discussion about the need for change with any residents, what type of change was an option or even what provider was chosen. Residents were also requested to sign a contract with Humenergy. This eventually was forced on everyone that wished to apply for government benefits as not signing the contract resulted in accounts being addressed to "the resident" which was not acceptable to the government.

The residents investigated options to prevent this from happening including Fair Trading NSW, the NSW Ombudsman and sought options from other providers of electricity. Unfortunately as the electricity supply was via an embedded network, no other provider was interested, and those that discussed the issue said that residents would have to have dedicated electricity lines installed which would have been a considerable expense as the homes were a significant distance from the main external electricity line. There was no way out for the residents."

Some home owners resisted becoming customers of Humenergy and were threatened with disconnection. After much lobbying that this was unfair the The Australian Energy Regulator (AER) has been clear in issuing a Q&A document (January 2021) that any retailer must obtain the explicit informed consent (EIC) of a customer. If they don't obtain explicit informed consent the contract is void. This does not prevent harassment of residents by the operator and many residents feel intimidated and that they have no choice.

2.2 Residents unable to change energy retailers

In theory, consumers in an embedded network can choose to buy electricity from an alternative energy retailer. However, it is often difficult - if not impossible - to outsource power because of the embedded network's wiring and associated charges. In an embedded network electricity is supplied by an energy retailer to the 'parent' smart meter. It is then on-supplied through the network to a series of 'child' accumulation meters – the meters that measure the electricity used by homeowners. These meters do not usually meet the required standards and are not registered with the National Metering Database, which is why energy retailers are unlikely to agree to supply.

Home owners can go on to the energy market but this requires an Embedded Network Manager to be engaged, the meter to be upgraded and the site to be registered with the

energy market. Not only is this quite a process it is likely the home owner will have to pay for the new meter and that could result in the loss of any benefit from lower priced electricity.

Having choice is not going to solve all the problems identified in our submissions with embedded networks. The lack of choice compounds these other problems. There is so much uncertainty in how current National frameworks apply to embedded networks and big gaps in coverage. There needs to be a strong response at the state level to clear up the uncertainty and the gaps and provide stronger consumer protection.

2.3 Renters' inability to influence or make decisions about contracts

Over a million people (1,125,000) live in strata premises in NSW, and almost half of all residents in strata schemes are renters (48%). Embedded networks are increasingly common in apartment buildings, but leave tenants without the usual consumer protections or the ability to change retailers where service is poor or prices uncompetitive.

Strata scheme legislation currently places time limits on most utility supply contracts. These time limits are an appropriate protection for consumers to ensure providers continue to deliver in terms of competitive price and service standards. In current strata scheme legislation there is an exemption for electricity embedded networks. The Report of the Statutory Review on Strata Scheme Legislation recommended the exemption be removed, and that contracts for the supply of electricity through an embedded network be subject to time limits (recommendation 120). However, this reform will not necessarily benefit renters in embedded networks in rented strata premises.

To some extent the disadvantage of embedded networks of not being able to access competitive prices for energy or other utilities will be mitigated for owner occupiers who are able to participate in strata decision making, and so can have input into the decision about the provider they contract to and whether or not to renew a contract. However, renters in strata buildings are not able to take part in strata decision making, and are in this way doubly disadvantaged. They are locked into a possibly non competitive power arrangement, with no opportunity to contribute to the decision-making regarding their provider and renewal of a contract.

Renters should be provided greater opportunity to be involved, if not in decision making at least in the conversation and consultation about reviewing and considering entering into a new utility contract. They should not be excluded from participation on the basis these are matters of a financial nature. The Report of the Statutory Review on Strata Scheme Legislation failed to make any recommendation relating to greater participation for renters in strata premises regarding embedded network contracts.

Recommendation

Consider how strata scheme legislation can provide for greater participation of renters in strata decision making in particular in relation to reviewing and considering entering into a new utility contract in embedded networks.

3. Lack of Disclosure

Currently there is no requirement to disclose embedded networks for utilities prior to entering into their housing arrangements. This often leads to frustration and confusion for renters and residents who may only realise at the point of entering the agreement that they have no choice over their utility providers in the premises.

Providing information about embedded networks at the point of signing the contract is for many too late to allow them to make an informed choice or walk away from the agreement. They may have already provided notice and are facing a deadline in relation to vacating a previous property by a certain date.

3.1 Disclosure at listing for rental properties

From March 2020, if electricity or gas is supplied to the rented property from an embedded network, landlords or agents need to disclose this in the residential tenancy agreement. However, this only applies to tenancy agreements signed from 23 March 2020.

For renters in strata communities there is currently no legal requirement to disclose information about embedded networks for energy and/or other utilities at the premises prior to signing the tenancy agreement. We are aware some listing sites for rental properties (e.g. rent.com.au) encourage agents and landlords to provide information about NBN availability (note: this is not a formal disclosure requirement). There is no such practice in place regarding embedded networks for services.

The statutory review of strata scheme legislation has recommended mandatory disclosure of services in embedded networks for sale of units, and that the information about the strata scheme held by Fair Trading include this information (recommendation 123 and 124). However, this will not mean renters of strata premises in embedded networks will have similar disclosure requirements in relation to advertising and listing rental properties. The *Residential Tenancies Act 2010* should require similar mandatory disclosure of services in embedded networks for any property when listing for rent as well as at the point of entering into the tenancy agreement.

Recommendation

Require disclosure of services in embedded networks at the point of listing (advertising) for rental properties.

3.2 Lack of disclosure for residents in Residential Land lease Communities

Residents in land lease communities do not usually find out that they are buying a home that has electricity supplied through an embedded network before or even at the time they

purchase the home and enter into a site agreement with the operator. Under the RLLC Act operators are required to provide a disclosure statement to prospective purchasers in RLLC. However, there is currently no information in this statement that alerts a homeowner to the fact they will be getting electricity supplied through an embedded network. No information about embedded networks is provided in the site agreement. Many home owners report that after they moved in they contacted an energy provider to connect utilities and it is at this point they find out they are in an embedded network and their utility supplier is also the operator.

The operators' EWON membership (where relevant) should also be confirmed in the disclosure statement. This would ensure residents can be confident that their operator - if they are operating as an exempt seller - has met the requirement to become a member of EWON, and that disputes can be resolved through the ombudsman. We discuss this in further detail below.

Recommendation

Require disclosure of services in embedded networks by the operator in the disclosure statement and site agreement.

4. Pricing and the calculation of charges

4.1 Different methods of calculation of charges, uneven protection for residents in Residential Land Lease Communities

In RLLC there are two types of residents and for the same supply of electricity they could be charged differently. There are people who own their own home (home owners) and those that rent their homes primarily from the operator (renters). Under the *Residential Land Lease Communities Act 2013* (RLLC Act) there are restrictions on how a home owner in an embedded network can be charged for electricity. Under Part 7 of the Act, these provisions do not apply to renters living in RLLC. They are therefore without the legislative protection regarding electricity charges that applies to home owners.

The *Residential Tenancies Act 2010* (RTA) requires the renter to pay all electricity charges if the premises are separately metered. The definition of separately metered includes a requirement that the meter has an NMI (National Meter Identifier), which ensures the tenant can be supplied with electricity by a retailer of their choice. If the meter does not have an NMI, the premises are not deemed to be separately metered, and the landlord must pay all electricity charges. However, the Residential Tenancies Regulation exempts a landlord from the requirement to pay the electricity charges if the supply is through an embedded network.

Essentially, the RTA provides consumer rights to renters by ensuring that they can purchase electricity on-market. However, if they are supplied through an embedded network, the RTA does not provide any consumer protections, leaving renters vulnerable to

overcharging and without access to dispute resolution services such as Energy and Water Ombudsman NSW if the operator is not a member.

There is no incentive for the operator who is supplying electricity through an embedded network to shop around for a better rate as the residents are paying for the electricity supplied. Home owners who are not on an embedded network can shop around and negotiate a better rate for their electricity. With the rising energy costs this will lead to further disparity in the electricity bills received by residents living in old and new parts of the same community. Residents are being disadvantaged in terms of cost and quality of supply due to a lack of protections and regulations of embedded networks.

Recommendations

The Residential Land Lease Communities Act should provide that the method of charging homeowners for electricity also applies to renters.

Electricity use and supply charges should be separate.

4.2 Overcharging of residents for electricity in Residential Land Lease Communities

Overcharging of residents of RLLC has been an ongoing issue since the RLLC Act was first introduced in 2013. This is a result of different interpretations of the provisions contained in the RLLC Act on how much operators can charge residents who are supplied with electricity through embedded networks. A number of years ago one resident took her dispute on electricity charging all the way to the Supreme Court. Operators at the time were charging residents more than the cost of supplying the electricity to them. Since the resident won the case there is now an agreed formula for calculating electricity costs.

In *Reckless v Silva Portfolios Pty Ltd t/as Ballina Waterfront Village and Tourist Park (No. 2)* [2018] NSWCATCD, the NSW Civil and Administrative Tribunal (NCAT, the Tribunal) accepted the evidence of an expert witness and determined that the calculation should be: the total amount billed to the operator divided by the total kilowatt hours (kWh) consumed in the community. This provides a kilowatt rate that homeowners are charged for each kWh they consume. The charge includes supply and home owners no longer pay a service availability charge (SAC) when they are charged under this method. The method is commonly referred to as the 'Reckless' or 'Reckless No. 2' method. As a result of this decision many residents received very large refunds from operators who had been overcharging them for years for electricity.

The problem with the Reckless method is that there is no certainty for residents on how much they can expect to be charged for their bills each month as the kilowatt rate varies every month. In addition as there is no service availability charge component, residents who receive low amps no longer can receive a discount for their supply as required by the RLLC Act.

The RLLC Act is currently undergoing its 5 year review and there have been a number of

alternative methods suggested for how electricity should be charged in embedded networks. During the review extensive consultation on different methods for electricity charges was undertaken with all stakeholders. A compromise agreement on a method of calculation was settled on. It is very disappointing that this has not progressed and residents in RLLC are still waiting for legislative reform. Residents who receive low amps are most disadvantaged by this ongoing delay as they are not receiving any discount on their electricity as compensation for poor supply. Legislative reforms need to be implemented urgently.

Recommendation

Urgently implement legislative reforms to calculation of energy charges for residents of Residential Land Lease Communities in line with agreed methods developed in consultation with stakeholders during statutory review.

5. Billing

5.1 Access to information about charges

The Australian Energy Regulator recently published the Better Bills Guideline. The guideline provides guidance to retailers on preparing and issuing bills to make it easy for residential and small customers to understand their billing information. This includes making available information that will allow customers to:

- pay their energy bills
- ensure their bill conforms to their contract
- query their bill
- understand their usage
- navigate the retail market to seek the best offer.

However, the Better Bills Guideline does not apply for exempt sellers. Consumers of exempt sellers in embedded networks will not see any of the improvements these guidelines are expected to implement.

For renters and residents in embedded networks we understand there can be quite substantial variation in the information provided on utility accounts. At a minimum, utility accounts should include:

- the name and address (including site number of the resident if they are in a RLLC)
- the date of the account, and date payable
- the previous and current meter readings
- the amount of water, electricity or gas supplied for the period
- the charge per unit of usage, and total usage charge
- the supply charge Recommendation

Not all customers are receiving this information in the bill they receive from their provider.

Recommendation

Relevant legislation covering tenancy or site agreements require landlords or operators to provide a range of basic, essential information on their utility bill if seeking to recover costs from a renter or resident.

5.2 Consistency in billing

The Tenants' Union has also received complaints about accounts not always being issued regularly for residents in Residential Land Lease Communities. This impacts homeowners who are presented with a large bill covering more than one normal period with only 21 days to pay.

Section 39 of the *Residential Tenancies Act 2010* requires a landlord to provide a bill for water charges within three months of being billed by their utility service provider, and to give the renter a minimum 21 days to pay. Any charges requested outside of the three months can not be recovered by the landlord. The RTA and the RLLC Act should contain a similar provision requiring landlords and operators who charge for utilities other than water to bill renters and/or residents for utilities at least every 3 months.

Both Acts (the RTA and the RLLC) should also provide greater clarity around the format and provision of utility receipts and require a functional equivalent to that provided by a market retailer. Receipts must provide sufficient detail to enable eligible residents to access rebates and Energy Accounts Payment Assistance (EAPA).

Residents in RLLC also face difficulties when seeking to access bills and other documents relevant to their utility charges. They have had to seek orders from the Tribunal before access is granted. The RLLC Act should provide greater specificity regarding what documents residents are entitled to, and what is meant by access.

Recommendation

The Residential Land Lease Communities Act should require operators to bill homeowners at least every three months and prohibits operators from recovering charges that were not requested within three months of the operator being billed by their utility service provider.

The Residential Tenancies Act should require landlords to bill renters at least every three months for all utilities (where charges apply) as they do with water charges at section 39.

5.2 Hot water embedded networks

There is currently a loophole within current regulations that allows hot water embedded network operators to bill hot water as water rather than as the energy related to it. This leaves embedded network consumers vulnerable to significant exploitation and

disadvantage, due to the lack of regulation surrounding the billing of water. Instead the sale of hot water could be billed to consumers in the underlying source of energy (in cents per megajoule or cents per kilowatt hour, depending on whether it was heated with gas or electricity) rather than as a hot water product (in cents per litre).

Many hot water embedded networks are owned and/or operated by the building or site owner or the owners corporation. While all embedded network hot water consumers are harmed by the weaknesses of hot water embedded network regulation, renters are particularly disadvantaged as they do not own the building or site and are not able to have a say in the decisions made by the owners' corporation.

Recommendation

Sale of hot water in embedded networks should be billed in the underlying source of energy rather than as a hot water product.

6. Infrastructure and supply

In RLLC there are safety and supply issues for residents on embedded networks. The amount of amperage that can be provided to a resident depends on the quality of the infrastructure of the embedded network. Some residents receive low amperage and can only use a limited amount of electricity at one time (for example, the resident may not be able to run a toaster, microwave and air conditioning unit all at the same time). Residents who receive less than 60 amps are entitled to a discount on their service availability (supply) charge which is applied by the operator under the RLLC Act. Currently though the Reckless method used for calculating electricity charges for home owners in RLLC does not allow for this discount to be applied.

While a RLLC operator's primary business is not the provision of electricity, once they have been granted a registerable retail exemption as an exempted on-seller of electricity from the AER; they have a responsibility to maintain a supply of essential services to residents (including electricity) as part of their operations. That supply should be safe and adequate to sustain essential household requirements. This is not the case in many land lease communities who experience a poor level of supply and electricity brownouts.

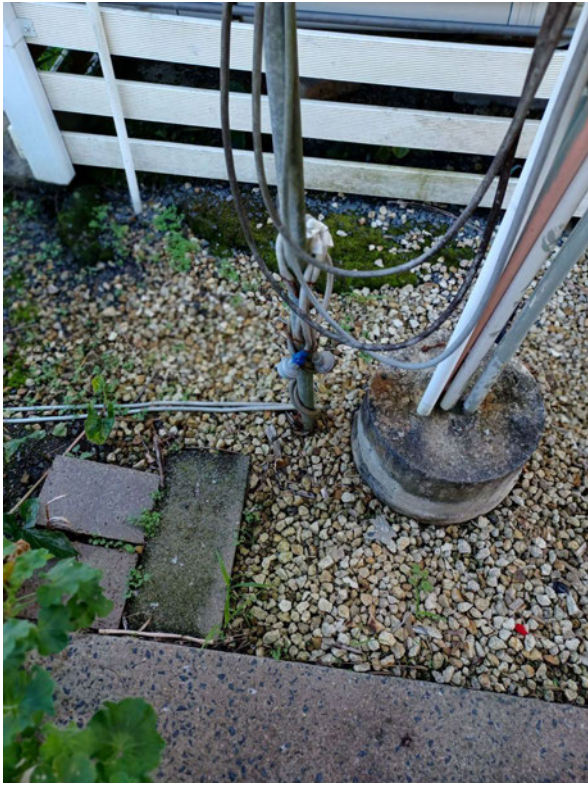
There are some communities where older parts are on embedded networks and the newer sections residents have accounts directly with energy retailers. In one community on the Central Coast of NSW there are two very different experiences depending on whether you live in the new or old part. There are vast differences in supply and amount spent on electricity by residents living in these two sections of the one community. There are 120 homes in the old part of the community where they have their electricity supplied to them through an embedded network. The infrastructure includes old rusty electricity mushrooms. Some homes are connected to these mushrooms with extension cords. Requests to upgrade these mushrooms have been ignored by the operator. The residents in the old part can only get 32 Amps which impacts on their daily life. If they have too

many appliances plugged in at the same time the power turns off. When heating or cooling their homes with an air conditioner they have to make a decision on what other appliances they need to disconnect. They cannot shop around for a better deal and are reliant on the operator to supply their electricity. Their bills are more expensive than other residents living in the newer part of the community who can shop around for the best rate.

Photos from a RLLC on the Central Coast



Rusty mushroom



Extension cables running from mushrooms



Utility connections to homes



Switchboard and meters

Requests have been made to install solar panels on homes but they have been refused by the operator and the reason given is the infrastructure is not in place to support this renewable energy source. In other communities where the embedded network is operated by Humenergy there are some older homes which have solar panels. These home owners do not get any credits for the solar that goes back into the system that they do not use. Other home owners have requested permission to install solar panels and have been quoted by Ausgrid \$12,000 for changes to the infrastructure plus the cost of the solar panels.

In another community on the Central Coast homeowners who are receiving electricity through an embedded network have been told by the operator that due to supply issues they cannot use electric stoves and must have gas stoves in their homes. They have also been advised that they can have only one air conditioner unit in their homes due to supply problems.

In the summer months in one community home owners report that there are often power outages due to the very old switchboard overheating.

Residents should have equal right to expect a certain level of safety and reliability and this should not be reliant on the business model of the person supplying electricity.

Recommendation

Embedded network providers, including exempt sellers such as operators of Residential Land Lease Communities, be required to maintain and upgrade where necessary the infrastructure to ensure the safe and reliable supply of essential services to residents

(including electricity) as part of their operations.

7. Data

7.1 Customers of embedded networks; including information about tenure

It is very difficult to currently estimate how many people are being supplied with energy or other services through embedded networks. The AEMC estimates the number to be around half a million people. However, there are no existing reliable data sources to enable accurate oversight of this. Data should be collected regarding the number of embedded networks in NSW, as well as the number of customers for each network.

Data collected should include information about the nature of tenure of consumers on embedded networks. This information is important given the variation in access to consumer protections, including disclosure and ability to negotiate retailer contracts, that can apply or are available in practice for residents of different tenure arrangements (i.e. renters in strata premises vs owner occupiers).

Recommendation

The NSW Government should collect and monitor information on the location and type of embedded network as well as the number of customers in embedded networks, this should include information about tenure (i.e. the number of renters and residents of RLLC) in embedded networks.

7.2 Information about infrastructure and supply

The Tenants' Union supports the collection of data from embedded network operators. In our view, data on child connection points should be reported to the AER. This will ensure the data is held centrally and is accessible as a full data set. It would be useful for embedded network operators to report on the age and types of child meters within the embedded network and the level of energy supplied to those meters.

There is a real danger land lease community residents in particular will be left behind as NSW moves towards clean energy and solutions cannot be found without a clear picture of current embedded network infrastructure.

Recommendation

Data on child connection points should be reported to the AER, and reporting should include the age and types of child meters within the embedded network, and the level of energy supplied to those meters.

8. Dispute Resolution

In March 2018 the Australian Energy Regulator (AER) released revised Network Service Provider Registration Exemption Guideline and Retail Exemption Selling Guideline requiring exempt entities servicing residential customers to become members of EWON. This has provided renters and residents in residential land lease communities with a new avenue for dispute resolution. We are aware the Australian Energy Regulator is currently working closely with EWON on a project to raise consumer awareness about their right to access EWON, targeting residents, including renters, in strata premises and residents of Retirement Villages.

Prior to exempt entities being required to be members of EWON the NSW Civil and Administrative Tribunal (the Tribunal) was the only way RLLC home owners could force operators to provide information about charges and most do not want to go to the Tribunal just to get information. It is a complex and time consuming process and some home owners are simply not up to it.

Having the option to now lodge a complaint to EWON is a step in the right direction. Despite this requirement to join EWON not all operators have complied with this. This leaves those home owners with no option but to take a dispute to the Tribunal. Consumers should not be required to navigate the complexity that they can only take disputes to EWON if their supplier is a member of EWON. As the supplier is their landlord they have a distinct power disadvantage. Many are fearful to ask questions or complain for fear of reprisal. There needs to be escalating penalties for RLLC operators who delay or refuse to join EWON. Currently there are no repercussions for not joining EWON.

In addition, we are aware that EWON currently does not feel they are able to fully resolve complaints relating to pricing within RLLC because of the current complexities with pricing in residential parks (due to the *Residential Land Lease Communities Act 2013*). This means even where the operator is a member of EWON, dispute resolution through EWON is not necessarily available to RLLC residents.

Recommendation

Escalating penalties should be introduced for exempt entities if they do not comply with requirements to become members of EWON.

9. Hardship supports

9.1 Availability and access to hardship programs for renters and residents in RLLC

The Australian Energy Regulator sets out in the Retail Exemption Selling Guideline that exempt sellers will likely be required to provide some customer protections in relation to hardship. However, the retail exemption guideline does not currently require exempt sellers to provide the range of hardship protections available to consumers of authorised

retailers. Where an exempt seller is providing service for residential consumers, they should generally be required to offer payment difficulties assistance and flexible payment plans if requested by the consumer. Not all customers of embedded networks are aware of the availability of these protections, and often do not know how to access or request these protections.

For residents in RLLC on embedded networks there is no formal process they can follow to access help when having payment difficulties. Residents are often reluctant to ask for help as the park operator who supplies electricity is also their landlord.

Additional hardship obligations for exempt sellers are needed. There should be a requirement to proactively provide support to consumers who have been late with payments. There needs to be strict guidelines to follow when creating fair and flexible payment plans with residents.

9.2 Access to grants or rebates - Energy Accounts Payment Assistance

Residents on embedded networks cannot access EAPA (energy accounts payments assistance). Currently customers who are residing in embedded networks (e.g. some strata plans, retirement villages and residential parks) are not eligible to apply for the assistance.

Some residents of RLLC receive a low income rebate but they receive this as a lump sum once a year rather than as a discount each quarter which is the case for consumers who deal directly with the retailer. It would be more beneficial for this rebate to be quarterly.

Recommendation

The Act should require receipts to be in a format that enables residents to access rebates and EAPA.

The NSW government should consider how EAPA vouchers might be made available to embedded network consumers.

9.3 Hot water embedded networks

Embedded network hot water customers should be able to access the consumer protections provided within the NSW Water Industry Competition Act 2006 (WICA), and as such, hot water embedded network operators should be required to obtain a WICA licence.

Recommendation

Hot water embedded network operators should be required to obtain a WICA licence.