

Submission to IPART Monitoring the NSW energy retail markets 2021-22 Draft report

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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Recommendation 1

IPART's final report include an analysis of actual experiences and outcomes of consumers, including analysis of actual bills and validating publicly listed offers against those actually accessible to consumers.

Recommendation 2

IPART's final report include further observations and analysis of retailers exiting the market or not taking on new customers. IPART should ensure analysis does not assume a causal link between number of retailers and price outcomes for consumers.

Recommendation 3

IPART's final report include an analysis of conditional discounting and their impact on bills for people who cannot meet the discount conditions.

Recommendation 4

IPART's final report include an examination of the failure of the market mechanism being used for the smart meter rollout and what options exist for the NSW Government to help NSW consumers access smart meters sooner, with a particular focus on access to meters for people on low incomes and disadvantaged in other ways.

Recommendation 5

IPART's final report should look at the systemic outcomes for all consumers, including those being left behind as we transition away from carbon-intensive energy.

Recommendation 6

IPART's final report be framed around insights developed in the AER's ['Towards Energy Equity Strategy'](#).

Recommendation 7

IPART's final report should include some exploration of where consumers do not use enough energy for their wellbeing in order to afford their energy bills and how these costs are shifted from the energy system to the health system etc.

Recommendation 8

IPART's final report should include some exploration of where people cut back on other essentials in order to afford their energy bills and how these costs are borne elsewhere such as the health system.

Recommendation 9

IPART's final report should highlight the importance of home energy efficiency in determining the outcomes for NSW energy consumers and how costs are shifted from the energy system to the health system where people live in hard to heat and/or cool homes.

Recommendation 10

IPART's final report should highlight the growing trend to afford energy bills by accessing BNPL and other credit products and encourage the NSW Government to look further into this issue including:

- Requiring retailers to make contact with consumer who pay their energy bills directly using credit products and letting them know that they can help them with payment options that do not require paying additional fees.*
- Improving access to payment plans and bills smoothing so that they are as easy and empowering to access, use and change as credit products are.*

Recommendation 11

IPART's final report should include some examination of the experiences with, and outcomes from, hardship programs, payment plans, bill smoothing and Centrepay for NSW consumers.

Recommendation 12

IPART raise with the NSW Government a process to manually approve rebates where there are address mismatch issues between supply addresses and Services Australia addresses. This could be extended for situations where people have name mismatch issues.

Recommendation 13

IPART's final report to recommend the exploration by the NSW Government of options for improved design of NSW rebates to create better outcomes for consumers, reducing carbon, whilst saving the NSW Government money in the longer term.

Recommendation 14

IPART's final report to highlight the need for improved design of EAPA to help people in long term need and with debt amounts that EAPA does remedy.

Recommendation 15

IPART to reconsider the inclusion of, or how it includes, the section on 'renewable' gas in its final report to better reflect the nature of gas blending trials and their likely impact on costs for consumers.

Recommendation 16

IPART's final report to include an examination of offsetting products including how consumers experience this aspect of the market, consumer confusion on green accreditation, confusion with purchasing renewable energy and the risks of greenwashing to informed consumer decisions.

Recommendation 17

IPART be explicitly required to investigate and report on embedded network and exempt selling issues in its annual energy retail monitoring report, including having access to numbers of people in embedded networks, the exemption class, the structure under which they pay for energy as well as access to actual bills. This should include assessing impediments to accessing EAPA as well as the sale of hot and chilled water.

1. Introduction

The Public Interest and Advocacy Centre (PIAC) welcomes the opportunity to respond to the Independent Pricing and Regulatory Tribunal's (IPART) Monitoring the NSW energy retail market 2021-22 Draft Report ('the Draft Report'). IPART's role monitoring energy retail markets remains important in understanding the experiences and outcomes for NSW energy consumers and helping to ensure the energy system is working for them.

In this submission we outline PIAC's understanding of competition from a consumer outcomes perspective. We overlay the Australian Energy Regulator's (AER) insights from their *Towards Energy Equity Strategy*, and provide our analysis of current energy market trends and consumer responses, including findings from the Save4Good project and research into payment harms we recently completed in partnership with the Australian Communications Consumer Action Network (ACCAN).

2. Research projects we refer to in this submission

Save4Good

All Sustainable Futures Inc (ASF) undertook a sustainability initiative called *Save4Good* in the Port Kembla community in NSW, from August 2019 to April 2021. The program engaged 916 local households and 90 small to medium enterprises to help them save money and reduce their greenhouse gas emissions through energy and water saving products and advice. Funding for Save4Good was from the Port Kembla Community Investment Fund and the NSW Department of Planning, Industry and Environment.

Port Kembla is a coastal community just south of Wollongong, NSW, on the land of the Wadi Wadi people of the Dharawal nation. The community has a diverse socio-economic mix as well as being ethnically diverse.

As part of the advice or 'health check' provided to participants, ASF:

- often negotiated a better energy plan on behalf of their clients;
- checked eligibility for energy rebates, ensured these were applied to bills and if they weren't, contacted energy retailers to assist the client apply for rebate/s they were eligible for;
- assisted clients interested in and eligible for the NSW Government's Appliance Replacement Offer to access the program; and
- undertook solar and efficiency assessments with indicative costs and potential savings.

In delivering health checks and assistance, ASF encountered behaviour from energy retailers that seemed to represent structural failures to deliver outcomes for consumers and approached PIAC. Subsequently, PIAC commissioned ASF to write a report documenting these concerns in greater detail.

Findings from this research are included in this submission. The Report by ASF and a summary of findings by PIAC can be found on PIAC's website: <https://piac.asn.au/2022/10/28/save4good-insights-into-retailer-practices/>

Payment harms

PIAC partnered with the Australian Communications Consumer Action Network (ACCAN) to research payment harms in energy and telco, asking the question, 'If you are disadvantaged, do you pay more to receive your utilities because of the way you pay?'

The first stage of the research was an Ipsos omnibus online survey of 1,000 nationally representative consumers to find out how they pay for energy and telecommunications, the reasons for these choices and whether they have experienced harm or other problems as a result. This also included cohort analysis to see whether certain groups in the community experience more harms than others. Groups experiencing particular harm were found to be: First Nations people, seniors on low incomes, people from culturally and linguistically diverse (CALD) backgrounds, people with disability, and 18-29 year olds in precarious employment.

From there, Action Market Research (AMR) was engaged to undertake:

- Desktop research into available energy and telecommunications offers.
- Interviews with 10 service providers - frontline workers such as financial counsellors who help people experiencing payment difficulties.
- Interviews with 30 consumers who are from the cohorts identified in the omnibus survey as more adversely affected by payment harms.
- A survey of 1,026 consumers who have a household income of \$50,000 or less and/or report difficulty affording their household bills.

PIAC and ACCAN are currently writing up the findings of this research, but we have included statistics and quotes from AMR's work in this submission.

3. The retail energy market

The purpose of retail energy competition

The overarching purpose of IPART's energy retail monitoring should be to assess the outcomes and experiences the retail energy market is delivering for all NSW consumers.

Competition in retail energy is intended to efficiently deliver an essential service. Contestability in retail energy services is not an end in itself, but was introduced to drive quality customer service at lower cost to consumers. Competitive markets can deliver good outcomes for consumers where they are well designed with incentives for efficiency and incentives to deliver the outcomes consumers need, and when they are well regulated. IPART's assessment of the retail energy market should seek not only to assess if broad indicators of competition (such as number of retailers, number of offers, consumer switching) exist, but also whether the intended outcomes competition are being delivered for consumers.

Competition does not necessarily guarantee better outcomes for consumers. Markets can deliver very inefficient outcomes that are not in the consumer interest when regulation and incentives are not aligned with consumer needs. It is not an immutable truth that ‘we would expect competition to deliver lower prices and more choice on average compared to a situation without competition’.¹ The essential nature of energy, and its potential to impact the health, wellbeing and financial sustainability of households, means it is vital the retail energy market is delivering the intended outcomes for consumers.

The intent of IPART’s retail monitoring should be both to assess the scope of competition (according to the measures most commonly examined by IPART) as well as the quality of competition (that is, how meaningfully it is delivering on the assumed benefits for all consumers). It is not appropriate for IPART to repeat assumptions about the value of competition unless the delivery of the assumed benefits of competition are meaningfully tested.

PIAC appreciates the limitations on information IPART can consider but since IPART has the ability to ‘also report on any other relevant matter’,² PIAC recommends IPART’s final report adds analysis of actual experiences and outcomes of consumers, to the broad quantitative indicators of competition such as surveys of publicly available offers and averages of prices. This could include small scale surveys of actual bills and investigation of the conversion of publicly available offers to actual offers consumers are able to access.

Recommendation 1

That IPART’s final report include an analysis of actual experiences and outcomes of consumers, including analysis of actual bills and validating publicly listed offers against those actually accessible to consumers.

If IPART does not consider it is able to effectively monitor the outcomes for NSW consumers within the limitations of its current directions, the Minister could request IPART to undertake a special review of outcomes for NSW consumers in the retail energy market. Such a review would be a timely opportunity to understand the circumstances and issues being faced by NSW consumers, both as a result of the energy transition and the current retail and wholesale market conditions. It could also be an opportunity to assess what future changes - such as in metering, Stand Alone Power Systems, the NSW Electricity Infrastructure Roadmap, energy efficiency improvements, rebate and emergency assistance reform and electrification – will be required to ensure the energy system can deliver positive outcomes for all NSW consumers.

Strong protections and effective regulations are required for all consumers, not only those who may be regarded as particularly vulnerable. In chapter 5 Vulnerability, we reference the AER’s work on vulnerability and their increasing understanding that all consumers are vulnerable.

Number of retailers

Until recent spikes in wholesale prices, even throughout the worst impacts of COVID, there appeared to be very little barrier to entry for retailers selling energy in NSW and numerous retailers seemed to survive with very small customer bases. PIAC considers this stems from the

¹ Independent Pricing and Regulatory Tribunal (IPART), ‘Monitoring NSW energy retail markets 2021-22 Draft Report’ (2022) 21.

² Ibid 16.

fact that selling an essential service means a retailer draws from a guaranteed pool of customers who must purchase, regardless of their perspectives of the products on offer.

A normal, healthily competitive market is still likely to involve the exit of retailers under 'normal' market conditions. This is a fundamental aspect of a meaningfully competitive market. PIAC contends it is worth asking why there has been relatively little exit from the retail energy market, even under circumstances that have been characterised as 'extreme duress' such as the recent period of COVID-19 with accumulated consumer debt, and recent wholesale price issues. A relatively small number of retailers (representing a statistically insignificant proportion of retail customers) have exited. One might expect the current circumstances to lead to more significant retailer exit due to the combined pressures of competition and duress. This could be considered an indication that competition is exerting less pressure on retailers and their margins than may be assumed.

Customer acquisition and retention costs can be inefficiently high in a market with a large number of retailers. The AER notes that retailer margins increased in 2021-22, but came off a record low in 20-21, which was likely due to the introduction of the Default Market Offer (DMO) and the Victorian Default Offer (VDO).³ However, the DMO has intentionally allowed for margins beyond efficiency and profit, so any increase in margin may be indicative of a lack of competitive pressure on retailers to be efficient. Retail margins should be monitored by IPART as part of their retail energy markets monitoring as an additional indicator of the effectiveness of retail competition.

PIAC recommends IPART observe retail entry and exit, as well as monitoring retailer margins further. It is important to ensure the assessment of evidence is not biased by assumptions of causal link between number of retailers and price for consumers.

Recommendation 2

That IPART's final report include further observations and analysis of retailers exiting the market or not taking on new customers. IPART should ensure analysis does not assume a causal link between number of retailers and price outcomes for consumers.

Retail offers and switching

Consistent messaging from governments, regulators and advice bodies is that consumers must regularly switch retailers or request a better plan from their current retailer. IPART's own monitoring assumes that the availability of reasonably priced offers is an indication of an effective market, on the basis that consumers can (and should) engage in such behaviour. Switching rates for 2021-22 have remained consistent with previous years at 19%. It is important to note:

- Switching rates assume that consumers can and do gain a better outcome as a result of the 'switch'. PIAC has previously highlighted work from the Victoria Energy Policy Centre that demonstrates this assumption may not be justified.⁴

³ AER, State of the Energy Market (2022), 182-183.

⁴ Victorian Energy Policy Centre (VEPC), 'Do Victoria's households leave less money on the table when they switch electricity retailers?' (2019) 23.

- Switching rates data is limited since it does not capture consumers moving to new contracts with the same retailer, but it does capture people moving house, even when they do not change retailers.
- People might try to engage in the energy system and attempt to switch but find the process confusing and/or stressful and not go ahead with the switch and this figure is not captured in switching rates.
- People engage with energy in a variety of ways, such as considering and/or purchasing rooftop solar and/or energy efficient appliances, which is not captured in switching rates.
- Just because a consumer is on a market offer does not mean they should be assumed to be on a 'good deal'. As noted in the Draft Report, some current market offers are higher than the DMO.⁵ Many people on market offers would be on offers with expired benefits (that they are unlikely to be aware of), which could mean they pay more than the DMO but do not get the protections included in a standing offer, and are not counted as being on a 'standing offer'.
- Advertised offers do not necessarily represent what consumers are actually accessing and the prices they actually pay.
- There is to legitimate question whether it is reasonable to expect consumers to constantly engage with the energy market (and avoid the issues identified) simply to avoid substantial losses. Households have many different aspects of their lives requiring their time and effort and current understanding of consumer vulnerability indicates making fair outcomes in essential services contingent on market engagement is likely to be increasing consumer vulnerability.

As the Essential Services Commission (ESC) of Victoria explored,⁶ despite consumers indicating that they switch retailers because of 'dissatisfaction with value for money'⁷ there is heavy concentration of consumers with the 'Big 3' retailers (Origin, AGL and Energy Australia), who 'do not seem to be competing in the lowest priced market segments'.⁸ A quick look at energy offers available on Energy Made Easy for NSW addresses indicates this seems to also apply in NSW.⁹ The ESC found that large retailers tend to retain their consumers indicating high levels of loyalty¹⁰ and that even when consumers from a Big 3 retailer do switch, 60% of them switch to another Big 3 retailer,¹¹ with three fifths of consumers who switch from medium-sized retailers switching to a Big 3 retailer.¹² Research conducted for the ESC into experiences of interacting with the market found price was not always the most important aspect of a plan and that brand awareness was an influencing factor. People found comparing plans complex and felt overwhelmed by the options available, whilst some found the 'perceived effort outweighed the reward'.¹³

⁵ IPART (n 1) 83.

⁶ Essential Services Commission (ESC), 'Victorian Energy Market Report 2020-21' (2021) 5-21.

⁷ As indicated in Energy Consumers Australia, Sentiment Survey June 2021.

⁸ ESC (n 6) 9.

⁹ We put in 6 locations across NSW for electricity offers listed on Energy Made Easy. This included were two locations in each of the three NSW network areas. The most price competitive offer of the Big 3 was ranked 7th most competitive on the Energy Made Easy list, with Big 3 retailer offers most common at 8th, 9th or 10th most competitive.

¹⁰ ESC (n 6) 12.

¹¹ Ibid 13.

¹² Ibid 16.

¹³ Ibid 13.

From a consumer perspective, there are no clear benefits to being with a larger retailer or a smaller retailer, although the Big 3 retailers have tended to have higher prices, not necessarily better customer service,¹⁴ less verified 'green' credentials¹⁵ and yet still maintain a significant market share (79%¹⁶).

ASF found that very few participants had negotiated a plan in the past 12 months (only 3% of participants). They found that many people who had been with the same retailer for a long period of time thought they would be getting a loyalty discount, yet participants who had not actively negotiated a plan were usually on their retailer's most expensive offer or close to it.¹⁷

ASF's understanding of consumers experience in the energy market was similar to the findings of the research undertaken for ESC of Victoria. They found:

This complexity is very confusing for the customer and then add barriers such as poor health, poor hearing, poor English skills and the likelihood of customers negotiating the best plan becomes more and more unlikely.

Furthermore, the conversation with the provider is controlled by the provider, at the outset there is very little of the exchange that the customer can control, which further disempowers the customer, many participants would say, when the Save4Good team was helping them, "*I would have hung up by now*". It seems that is what the energy provider is relying on, in establishing a long, disempowering process to negotiate the plan or check on a rebate.¹⁸

Given that it is complex, overwhelming, disempowering and often not deemed to be worth the effort, PIAC questions whether switching rates should remain an unexamined positive indicator for a healthy energy market on the assumption they deliver better outcomes for consumers.

Practical accessibility of plans listed on Energy Made Easy

IPART notes there has been a 51% reduction in the number of retail offers in the market.¹⁹ This assessment is based on public availability not actual offer accessibility. It is possible that there has not been a material change in the number of offers actually accessible to consumers, over and above the reduction resulting from the withdrawal of a small number of very small retailers. That is – the reduction in offers is not necessarily a sign of actual change in consumer offer availability and has not had a negative impact on consumers.

ASF checked the AER energy plan comparison website, Energy Made Easy (EME), to find appropriate plans for their clients. Looking on EME, ASF found an enormous 708 plan options to choose from, from 37 different retailers, available for Port Kembla consumers. However, when ASF called the chosen retailer to get their client onto a plan they saw on EME, they often found the retailer would say that the plan they requested was unavailable. For example, when ASF was

¹⁴ For example the AER has recently undertaken enforcement action against Origin for hardship breaches and wrongful disconnections; Energy Australia for contravening life support obligations, hardship breaches and failure to apply payment plans; and AGL for wrongful disconnections and failure to offer payment plans: <https://www.aer.gov.au/retail-markets/compliance-reporting/enforcement-matters>

¹⁵ Greenpeace, 'The Green Electricity Guide' (2022) including the comprehensive data spreadsheet.

¹⁶ IPART (n 1) x.

¹⁷ All Sustainable Futures (ASF), 'Save4Good: A report for the Public Interest Advocacy Centre' (2022) 11.

¹⁸ ASF (n 17) 11.

¹⁹ IPART (n 1) 45.

on a call to a retailer and referred to a rate listed on EME, the retailer would say something such as: “We are not offering that today – the offer today is...”.²⁰

Even if ASF had negotiated a plan for a client earlier in the day, that plan was often no longer available when they called the same retailer for another client later the same day.

ASF write:

In a sense, whilst the *Energy Made Easy* website gives you a feel for the market in general, the offers listed on the site may NOT be an offer that is made to the customer on any given day. The point here is whilst the energy providers promote “Plans” each plan seems to be fluid on any given day.²¹

This evidence supports consistent anecdotal evidence provided by financial counsellors, the Energy and Water Ombudsman NSW (EWON) and the experience of PIAC staff themselves. This disconnect between public advertisement and actual accessibility adds to the complexity of negotiating for people wishing to switch retailers or simply understand if they are on a fair deal. It can be difficult enough to use EME and determine a plan that is right for them and then undermining of confidence in the retail market to be told that an advertised offer is not actually available.

We know that the plans and prices listed on EME are not an indication of what many consumers are actually paying or the conditions they are experiencing because benefit periods expire and prices change. The evidence provided by ASF adds to concerns as it gives the market regulators including IPART and the AER even less visibility about what consumers are experiencing and what energy is costing them.

Prices and price dispersal

The current environment of high wholesale prices should be regarded as an opportunity to review what is actually happening for consumers and what opportunities exist to help strengthen the retail market and its ability to deliver for NSW consumers.

Whilst there has been a period of particular volatility and other circumstances, such as high interest rates, have impacted the business models of retailers, it is important to note that it is the inherent function of retailers to translate the volatility of the market into consistent and accessible retail processes for consumers. The current period should be a consideration for increased prices, but it is not necessarily an extraordinary circumstance that is outside the scope of retailer systems and processes and practices to deal with, particularly when most consumers are served by retailers who are also generators.

Presenting pricing differences in available offers as a competition accelerant is neither accurate nor appropriate in assessing the outcomes of competition. It assumes that wider price differentials are a positive outcome of a competitive market that is delivering for consumers. PIAC considers that having a range of consumers paying widely different prices for the same service is a poor outcome for consumers, as it means that some consumers are heavily subsidising the energy costs of others. This is not accepted, and indeed actively avoided in network pricing that

²⁰ ASF (n 17) 11.

²¹ Ibid.

underpins retail prices. There is no reason why a ‘cross subsidy’ is deemed inefficient at network where a similar transfer between consumers (if more random and less transparent) is not only accepted but embraced as an indicator of an effective market. These price differentials are to a large extent artificial (in that they do not reflect the underlying cost of service provision) and intentionally benefit some consumers over other less ‘mobile’ ones. This does not accord with the preferences and underlying assumptions of consumers that PIAC has consistently observed throughout extensive community engagement undertaken by NSW energy distribution networks.

The Draft Report continues to focus on improved consumer information and education in order to help address these market characteristics. Improvements to accessing easy to understand information is always welcome, but PIAC does not consider it possible to address the structural factors (and the inherent information and power imbalance between consumers and retailers) with further consumer information. Effective market regulation has a role in protecting consumers and ensuring that fair outcomes are not reliant on consumer capability and the assumption that because better prices are available for some, all consumers can practically benefit from them.

Recent increases in energy prices, and further increases anticipated, combined with increased inflation increasing the cost of goods, increases in rents²² and in mortgage repayments (due to rate rises), now more than ever, it is imperative that energy markets work for all people.

Default Market Offer

The Default Market Offer (DMO) is not a cap on prices. It is a partial cap on standing offers which, as documented by IPART, only a small fraction of people are on/or can access.

PIAC disagrees that the DMO ‘may reduce competition in the retail market if retailers are unable to recover their costs and leave the market’.²³ There is no evidence that the DMO does or could act as a crimp on innovation,²⁴ particularly where innovation can involve non-price aspects (such as meter and demand management opportunities) that retailers largely do not pursue.

The DMO is unlikely to inhibit competition or innovation because:

- Only about 10% of residential and 18% small business consumers²⁵ are on the standing offers. It is likely that most of these consumers are with the Big 3 retailers since they are the local area retailers. Larger retailers have large customer bases to smear costs across and continuously hold their market share.
- Market offers can be above the DMO.²⁶
- The DMO itself includes a large inefficient cost allowance in addition to margin and profit.
- Although consumers can request to go on the DMO,²⁷ retailers are not required to offer the DMO to consumers on market offers or those who do not fit into a relatively small category of consumers who go on standing offers. EWON has advised PIAC that consumers have asked

²² CoreLogic, ‘Residential rents hit record highs as national vacancy rates plummet,’ July 2022.

²³ IPART (n 1) 79.

²⁴ Ibid 83.

²⁵ Ibid iv.

²⁶ Ibid 83.

²⁷ Ibid.

their retailer that they go on the DMO and their retailer has refused. The consumers took this refusal as a complaint to EWON but found no recourse.

Regardless of this, it is important to note consumers are supportive of caps on essential services such as energy.²⁸ IPART should also note that the Department of Industry, Science and Resources (DISR) research referred to in the Draft Report²⁹ had flaws because it did not comment on consumers' perceptions regarding the DMO, where they assumed the DMO was a cap on prices. This research also did not investigate the retail pricing practices that confuse the value of the DMO (for example, by including sign-up bonuses as part of calculations in discounts from the DMO reference price). IPART's monitoring should not simply assume the DMO has negative impacts on competition and should ideally consider how the DMO is (or is not) improving outcomes for NSW consumers and how it may be improved.

Conditional discounting

Although conditional discounting on retail offers is trending down, ASF said they saw a confusing number of discounts offered both in terms of amount and name.

"Guaranteed Discount" offer is also fluid, it may be 8%, 10%, 11% 12%, 14% or 16% with the same energy provider. Negotiating bills every day, we were very rarely offered the same discount twice from the same provider, the amount of the discount varied as did the name of the discount. A single provider offered a Guaranteed Usage Discount, or a Guaranteed Supply Discount, or total Guaranteed Discount, or a Loyalty Discount, or a Pay-on-time discount. Each provider had their own suite of discounts which a customer may or may not access.³⁰

The AER notes that 9% of people on offers with conditional discounts did not meet the conditions and so did not receive the discount. They also found that 14% of people in hardship programs and 12% of people in payment plans did not meet the discount conditions so were penalised with higher bills.³¹ This indicates that to a certain extent, the people who can least afford it are helping to supplement the costs of those who may be in a position to better afford their energy bills and/or less likely to be living hand to mouth.

There is a role for IPART to monitor the use of conditional discounts and the outcomes they provide for NSW consumers.

Recommendation 3

That IPART's final report include an analysis of conditional discounting and its impact on bills for people who cannot meet the discount conditions.

Metering

The smart meter rollout is an essential component of our transition to a zero carbon energy system. Access to a smart meters enables consumers to understand and manage their energy

²⁸ Guardian Essential poll: '70% of people want price caps on essential services such as energy' (2022) <https://www.theguardian.com/australia-news/2022/aug/23/guardian-essential-poll-70-of-people-want-price-caps-on-essential-services-such-as-energy>

²⁹ IPART (n 1) 83.

³⁰ ASF (n 17) 11.

³¹ AER (n 3) 210.

usage, have more regular, accurate and manageable bills, as well as benefit from Distributed Energy Resources (DER). Yet many consumers in NSW are being denied access to this resource because of the slow and inconsistent pace of the smart meter rollout.

Metering was removed from the scope of distribution networks on the explicit assumption that retail competition would be an effective framework to roll out advanced metering more rapidly, efficiently and in a way that benefited consumers. The AEMC's own review asserts this has not been the case, with the current process examining ways to address the failures of the retail-lead rollout to date.

As IPART note in their Draft Report,³² retailers say the cost of installation and problems with coordination between retailers and metering providers continues to create barriers to the uptake of smart meters. This complexity and difficulty in coordination is a direct (and unnecessary) result of a retail-lead metering rollout. PIAC contends that this should be regarded as a failure of retail competition to deliver efficient outcomes for NSW consumers.

It is not sufficient to simply accept retailer arguments that it is costly and difficult to undertake the smart meter rollout. Similarly, \$100-\$300/annum metering costs (in addition to similar installation costs) does not appear to represent a clear, beneficial outcome for consumers. IPART should question whether the current arrangements are capable of delivering for consumers, particularly in the light of NSW Government priorities that rely on a capability for more dynamic response from consumers.

In its final report, PIAC recommends IPART include a more thorough examination of how the smart meter rollout has been a failure of competition to deliver intended outcomes and has left consumers worse off. This should be accompanied with recommendations for how the NSW Government could pursue measures to improve outcomes for consumers in NSW. Since the retail market is unlikely to deliver better outcomes for people on low incomes or disadvantaged in other ways, particular focus should be given to how they can access smart metering sooner, such as making advanced metering a requirement in social housing and private rental properties.

Recommendation 4

That IPART's final report include an examination of the failure of the market mechanism being used for the smart meter rollout and what options exist for the NSW Government to help consumers access smart meters sooner, with a particular focus on access to meters for people on low incomes or disadvantaged in other ways.

4. Widening gap between those who can access new technology and those who cannot

Some households continue to be able to manage their energy costs safely and efficiently through DER, energy efficiency and being on an appropriate retail offer that meets their needs. However, the majority of renters, households on low incomes and many others, particularly those who face English language and/or technological barriers, are still unable to do so. These groups rely on the outcomes delivered by the market and are often left to manage their costs through reducing their

³² IPART (n 1) 39.

usage in unhealthy ways, accumulating debt and/or finding unsustainable ways to pay for this essential service, including through small credit contracts.

The AER notes that over the last decade, residential consumers have reduced the amount of electricity they consume, mostly due to solar PV uptake, but also through improved energy efficiency.³³ However, as the AER also notes, this overall reduction in electricity usage hides the electricity consumption amounts of different households: Households with the capacity to access solar, batteries, energy efficient appliances and energy efficient housing are likely to have experienced significant reduction in their electricity use whilst households who are unable to access this have not experienced a reduction in their electricity use.

Electricity prices continue to be higher for people in regional and rural areas of NSW due to higher network prices in the Essential Energy distribution area, even though recent price rises were not as high.³⁴

Households who face barriers to safely reducing their electricity consumption are usually the households who can least afford electricity bill increases.

Residential gas consumption has also decreased, largely due to consumers switching from gas appliances to efficient electric appliances.³⁵ This again leaves behind consumers who are not able to switch from gas due to their tenure, financial situation or capacity to access information, to pay for the gas network with a reducing pool of consumers.

A combination of policy settings (such as changes to tenancy laws including minimum energy efficiency standards), plain language assistance, access to smart meters, incentives and supports can help all households fairly transition away from gas and high electricity consumption. We explore some of these options further in chapter 5 Vulnerability.

The widening gap between those who can reduce their energy use and those who cannot will only increase without government intervention. The stakes become higher as our climate changes, with households without power or capacity to make changes having to live with housing ill equipped to cope with temperature extremes by either facing high energy bills due to high energy consumption and prices, or facing the health consequences of living in homes that are too hot or too cold for human health.

Recommendation 5

That IPART's final report look at the systemic outcomes for all consumers, including those being left behind as we transition away from carbon-intensive energy.

5. Vulnerability

The AER has undertaken significant work to understand vulnerability as a state all consumers experience on a relative scale. This then means that we need to understand the relative impact of

³³ AER (n 3) 190.

³⁴ IPART (n 1) viii.

³⁵ AER (n 3) 190.

vulnerability on consumers at any particular point in time, which combines personal circumstances and the nature of the market/service being engaged in.

Recommendation 6

That IPART's final report be framed around insights developed in the AER's ['Towards Energy Equity Strategy'](#).

Understanding paying energy bills

As part of the payment harms research undertaken by PIAC in partnership with ACCAN, respondents indicated they consider paying their electricity bill a high priority. They were also asked to rank all the different bills they receive in priority order. Overall, rent/mortgage payments were ranked as most important. Paying the electricity bill was most commonly ranked as the second most important bill to pay. When looking at these results by top three bills ranked, paying the electricity bill is the most important with 68% of respondents indicating electricity bills within their top three bills to pay off as a priority.

Despite this prioritisation, 38% of survey respondents said it was difficult to pay their energy bills on time whilst 13% reported being in arrears for their electricity bills. For these people, the average amount owing was \$575. It is important to note this exceeds the \$300 amount which allows retailers to disconnect a customer.

Paying to pay

The payment harms research found that many lower income consumers pay more for their energy bills, not because of higher consumption, but because of the way they pay or because they do not have the cash flow to pay on time. 9% of respondents indicated they had been charged multiple fees on a bill. This included fees for the method of payment, fees for the way they received their bill, late fees or other types of fees. Missing out on pay-on-time discounts was also mentioned by some consumers. Importantly this is likely to under-estimate the scale of the issue as individuals are not necessarily accurate in their assessment of all the fees they are incurring. One financial counsellor explained:

The late fees and the missed direct debit and then the fees in the bank account because they've missed the payment, all those things mean the cost... you can sit here and say, "the electricity only cost \$X". Fact is, plus for Defer-It, plus the missed direct debit, plus the late fee, plus the paper statement fee. What's the real cost? The real cost is if you are of lower income, if you are lower financial literacy and lower literacy, you will have the disadvantage surcharge.

Other service providers interviewed as part of the research also referred to this 'disadvantage surcharge' that penalises to people who struggle to pay their bills on time. They indicated that if consumers do not understand internet billing, cannot make quarterly repayments by direct debit, and/or need to defer some bills while paying off other bills, it is likely that they will get charged either a late fee, or an additional fee to pay their bill, or potentially have interest accruing on amounts owing (if using a credit card).

They also explained that for people living hand to mouth, timing of bills matter. People who get paid fortnightly but have a bill that is issued monthly or on a different day each month may end up paying a late fee because the bill payment timing does not align with their pay day.

The research also found consumers who managed their energy bills by paying them incrementally by BPAY. This may have enabled them to put money towards their energy bills from each pay in an attempt to avoid having to budget for a large quarterly bill. However, despite their efforts if the energy bill was still too large to pay they often ended up in arrears again anyway. If a consumer pays too much utilising this method they cannot get the money back for another expense that is due, it is just put as a credit towards the next energy bill. This means it can often become an exercise in 'shuffling arrears'. In any case, it provides further evidence to demonstrate why adding a constant requirement to 'shop around' is an added burden on already stressed households at best.

The 'paying more to pay' or 'disadvantage surcharge' means that people who already struggle to pay their energy (and other) bills end up paying more and get caught in a loop of always trying to catch up with bills. This can be when some people turn to credit products in an effort to help make ends meet, but of course they usually just exacerbate the problem by adding interest or fees to the cost.

Some quotes from the research indicating the stressful and frustrating nature of struggling to make ends meet trying to pay for their energy bill include:

- "Because once you're behind in one payment, it's almost impossible to get back up on top, so it just keeps accumulating. You finally have enough money to pay the overdue amount, but then the new bill is due."
- "Every day I am struggling and juggling and stressing out about paying on time to avoid being penalised."
- "Because it costs a lot, and by the time I have nearly paid off the last bill, a new one comes in. Then I'm back at square one with high bills and more repayments."

Disconnection

Since Covid-19 and the Statement of Expectations, disconnection rates have dramatically reduced. PIAC rejects IPART's characterisation that 'the risk of disconnection is a key trigger for customers to pursue a hardship or payment plan arrangements.'³⁶ This is a simplistic assessment which assumes people 'can pay' and require a threat in order to make an effort do so.

It is a requirement that retailers proactively help consumers experiencing payment difficulty:

- Rule 43(1) of the National Energy Retail Law (NERL) says: 'The purpose of a retailer's customer hardship policy is to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis.'
- Rule 43(a) says the hardship policy of a retailer must contain: 'processes to identify residential customers experiencing payment difficulties due to hardship, including identification by the retailer and self-identification by a residential customer.'

³⁶ IPART (n 1) 77.

- Rule 43(b) says the hardship policy must contain: ‘processes for the early response by the retailer in the case of residential customers identified as experiencing payment difficulties due to hardship.’
- Ahead of a disconnection notification, rule 47 says ‘A retailer must give effect to the general principle that de-energisation (or disconnection) of premises of a hardship customer due to inability to pay energy bills should be a last resort option’.

Further, Origin and AGL have recently been issued with infringement notices for suspected breaches of the National Energy Retail Rules regarding disconnection.³⁷

It is therefore a failure of retailer processes and a breach of the NERL that ‘without this trigger [a disconnection notice], many customers who would ordinarily have entered an assistance plan in 2021 may only now do so following the recommencement of disconnection warnings.’³⁸

Disconnection or disconnection threats do not solve any problem of payment difficulty, they merely make a stressful and unaffordable situation more stressful and more unaffordable. For example, in order to avoid a disconnection, research undertaken on behalf of PIAC found that whilst 40% of people sought payment plans, 34% delayed other payments (simply shifting the debt or loss of service elsewhere), 32% of people cut back on buying food or other groceries and 17% delayed medical/dental appointments.³⁹ Hence, even if the disconnection notice does trigger a consumer to contact their retailer, this does not mean that the consumer can suddenly afford their bills, but rather that most people make a payment using money they needed for other expenses. As the research found, disconnection or threat of disconnection does not solve the problem:

Participants in this research clearly saw being disconnected as humiliating, and as something they would do whatever they could to avoid. The costs of disconnection often exacerbate an already difficult situation. As well as the costs, the primary reason to avoid disconnection is the humiliation of having it happen, and those who were disconnected reported that it was something they would have avoided if they had been able to afford it. Reconnection fees etc. simply make their struggle to balance their bills even more difficult and exacerbate longer-term vulnerability.⁴⁰

According to the *NSW Energy Rebates Annual Report 2020-21*, consumers who receive a rebate and are disconnected on average use more electricity (6,932 kWh/year) than average NSW residential consumers (5,172 kWh/year) and non-disconnected electricity rebate consumers (4,800kWh) and disconnected rebate gas users have higher use (24,700MJ/year) compared to average rebate gas consumers (19,500MJ/year)^{41 42} indicating that these disconnected disadvantaged households may need assistance through energy efficiency or other measures including electrification to help them safely reduce their usage and that payment plans on high bills is not a long term solution.

³⁷ <https://www.aer.gov.au/retail-markets/compliance-reporting/enforcement-matters>

³⁸ IPART (n 1) 77.

³⁹ UMR, ‘Close to the Edge - a quantitative and qualitative study’ (2018) 46.

⁴⁰ Ibid 10.

⁴¹ At page 32.

⁴² Noting the limitation to these figures including that there are different numbers of people in households and numbers of gas appliances in households etc.

Work continues to help people at the crisis point of a disconnection such as through the Knock to Stay Connected process. Essential Energy and Endeavour Energy have implemented this program as business as usual. It occurs in advance of the usual disconnection action and involves a meter reader handing the householder a notification of imminent disconnection and telling them to contact their retailer to avoid this. Along with this notice, the distributors provide a flyer containing information on financial and other supports available (PIAC developed this flyer along with St Vincent de Paul Society and the Salvation Army), giving the householder several days to contact their retailer to stop the disconnection and get more effective assistance from them. During pilots of the program both networks had a significant reduction in the number of disconnections proceeding.⁴³ The idea behind the supports flyer is to ensure contact with a retailer not only avoids disconnection but does so in a way that is more sustainable for the household in the long term, reducing further instances of debt and disconnection. We do not yet have data about the effectiveness of the program running as business as usual. Ausgrid is undertaking a pilot in partnership with Energy Australia that might be more ambitious in preventing disconnection than the program being undertaken by Essential Energy and Endeavour Energy.

This program is an example of a shift in thinking: that reaching a point where a disconnection notice is issued is an opportunity to help people in need, rather than a 'trigger' for the consumer to take action. It is also an opportunity to provide further wrap around support to people experiencing extreme payment difficulty which is likely to be the result of other structural and personal reasons.⁴⁴

Debt

During Covid-19 the proportion of residential consumers in debt increased, as did the average amount of this debt. Less people are entering hardship programs, but the number of consumers in hardship programs is high, indicating people are remaining in these programs and are not exiting 'successfully'. Average debt upon entering hardship programs has risen, as has the amount of debt of hardship program participants. Consumers are maintaining more debt for longer and are accruing debt even when in hardship programs. The average debt of consumers in jurisdictions covered by the AER has risen by 3.9% to \$1,060.⁴⁵ Debt amounts for disconnected electricity rebate consumers in NSW rose from \$1,500 in 2019-20 to \$1,800 in 2020-21.⁴⁶

The AER expects that higher retail prices will exacerbate debt problems.⁴⁷

The AER also found that people in hardship programs use an average of over 60% more electricity than typical consumers⁴⁸. This is further demonstration of the widening gap between

⁴³ Essential Energy reported their trial resulted in 70% of disconnection notices being cancelled; Endeavour Energy reported their trial resulted in 45-47% of disconnection notices being cancelled.

⁴⁴ For example, in the 'Close to the Edge' report, UMR found that disconnection or the threat of disconnection was just part 'of a wide range of factors they are trying to deal with' and that the people who had been disconnected in the past 12 months 'are relatively likely to come from demographic groups frequently associated with economic disadvantage' (pp14-16).

⁴⁵ AER (n 3) 196-7.

⁴⁶ NSW Department of Planning and Environment, 'NSW Energy Rebates Annual Report' (2022) 32.

⁴⁷ AER (n 3) 178.

⁴⁸ Ibid 193.

people who can afford/are able to access DER and energy efficient homes and appliances to keep energy usage down and those who cannot. High bills and debt further reduce these people's ability to purchase energy saving appliances (since the upfront cost of these appliances tends to be higher than less efficient models), access solar or even purchase their own home which would give them more control in improving the energy efficiency of their dwelling.

As part of Save4Good, ASF found:

- Debt usually accumulated after a single event such as people staying over Christmas or a new heater or cooler.
- Arrears was usually between \$1,800 and \$3,500 and therefore too high for Energy Accounts Payment Assistance (EAPA) vouchers to make much difference.
- Households generally budgeted for energy bills and were fearful of higher than expected bills.
- A considerable number of households were receiving estimated reads and that the estimates were based on higher usage than at the same time in previous years. These high bills caused many households stress.
- Despite many household participants on low incomes having poor thermally performing homes, ASF found that their bills were not high because of high usage (many used very little energy and lived with very cold temperatures), but because they had high fixed charges.
- Households were found to be reluctant to contact their energy retailer if they had payment difficulties because they were fearful their service would be disconnected.

Under consumption of energy

The payment harms research found some consumers attempt to cut back on energy to keep their bills low, but they are still hard to afford:

- “My family always complain to me how cold my place is. And one time my mum offered to pay to use the heater because I won't use the heater during winter [to save money].”
- “It's so expensive. We try to use as little electricity as possible yet each month the bill shocks and deflates me because my efforts don't seem to make a difference.”
- “The prices keep going up and up and I have no way of keeping costs down - I use barely any heating and no cooling.”
- “Because in order to do it [pay energy bills] on time I have to sacrifice things like hot water, heating, etc. and reduce expenses in other areas to ensure there is enough money.”

Under consumption of energy can also coincide with increasing fixed charges from retailers, compounding impacts on consumers who face unaffordable bills while not being able to meet their energy needs. This payment difficulty is hidden from retailers and is not captured in IPART's retail monitoring but is an important consideration of outcomes for NSW energy consumers.

Recommendation 7

That IPART's final report should include some exploration of where consumers do not use enough energy for their wellbeing in order to afford their energy bills and how these costs are shifted from the energy system to the health system etc.

Cutting back elsewhere to afford energy

Also hidden from retailers is where consumers cut back in other areas in order to afford their energy bill. The payment harms research found 74% of people indicated that they go without something to be able to afford their utility bills. More specifically:

- 65% said they reduced or went without social activities;
- 46% avoid going to the hairdressing/barber;
- 39% go without food and groceries; and
- 27% go without petrol/transport.

Interviews with consumers indicated the harmful things they do to afford their essential bills. For example:

- “I go without food. I've got things coming up, so we'll buy a 10 packet of 2-minute noodles for the week. Similar for energy bills.”
- “Yeah, anything really to make sure bills are paid, I don't like getting behind on the bills. I skimp on the shopping. When I was first put on disability pension, I became really unhealthy. My daughter was fed but I wasn't eating. I was only eating 2 or 3 nights a week.”
- “I go for cheaper groceries than I probably should or would like to for the sake of having my mobile bills paid. Similar for energy bills.”

Recommendation 8

That IPART's final report should include some exploration of where people cut back on other essentials in order to afford their energy bills and how these costs are borne elsewhere such as the health system.

Hard to heat and cool homes

As explored in chapter 4 Widening gap between those who can access new technology and those who cannot, disadvantaged households are more likely to live in homes which are hard to heat and hard to cool because of a lack of money to improve the thermal performance of their dwelling or access more energy efficient appliances. Similarly, tenancy laws inhibit renters' ability to improve the thermal performance of their dwelling and the energy efficiency of fixed appliances.

Low standards of thermal performance and liveability can severely impact health and wellbeing, and in some cases, cause or contribute to death.⁴⁹ Australian housing is of a low energy efficiency standard compared to similar countries.⁵⁰ For some households, this means high energy bills to attempt to stay cool or warm. For others, it means going without and suffering the consequences to their wellbeing. For example, ASF found:

⁴⁹ Better Renting, 'Unsafe as Houses: Cold housing deaths in the ACT' (2019).

⁵⁰ R Horne & C Hayles, 'Towards global benchmarking for sustainable homes: an international comparison of the energy performance of housing' (2008) *Journal of Housing and the Built Environment*, 119–130.

Many low income households live in poor thermally performing homes (hot in summer and cold in winter). However, the largest “additional” costs of low income householder bills was NOT high use (as most had learnt to minimize their use, even if it meant being extremely cold) but high charges.⁵¹

Unhealthy thermal environments cause fatigue and stress, preventing people from engaging in education, working from home, seeking employment, and other opportunities, in addition to the flow-on financial impacts. Living in homes that are too hot or too cold also shifts costs from the energy system to the health system.⁵²

Recommendation 9

That IPART’s final report should highlight the importance of home energy efficiency in determining the outcomes for NSW energy consumers and how costs are shifted from the energy system to the health system where people live in hard to heat and/or cool homes.

Increase in use of unregulated and lightly regulated credit products

Retailers may not have visibility of the full scope of payment difficulty being experienced by consumers where in order to pay energy bills on time, people are increasingly turning to Buy Now Pay Later (BNPL) and other unregulated/lightly regulated credit products. For these people, retailers see a payment and without considering the impact of the source of that payment, do not identify those customers as in payment difficulty. Financial counsellors report an increase in clients with BNPL debt⁵³ and increasingly, people are using BNPL for essentials, including utility bills.⁵⁴ Paying energy bills using these products means that some consumers are again paying more for their energy bills because they are paying fees (or sometimes interest) to access the products, while delaying (and in many cases compounding) issues with arrears and debt.

The payment harms research PIAC conducted with ACCAN found approximately 40% of consumers surveyed reported using BNPL products for general expenses. 15% of energy consumers had used BNPL to pay for their energy bills and a further 31% of energy consumers would consider this option to pay in future.

If an energy bill is paid using a credit product such as Defer It, retailers should be required to contact that consumer and let them know that they can help them with payment options that do not require paying additional fees.

The payment harms research found that credit products are:

- Fast and easy to get.
- Are a positive experience to get them, whereas to get government or retailer assistance consumers have to ‘jump through hoops’ and often feel the sense of shame that they do not have enough money to afford their expenses.

⁵¹ ASF (n 16) 20.

⁵² For example, a program in Victoria which improved the thermal comfort of homes for people on low incomes and with a health or social care need found that “people in upgraded homes used fewer [medical] services and had lower health costs. Healthcare cost savings over the single 3-month winter period were \$887, dwarfing the \$85 energy cost savings” (Sustainability Victoria, ‘The Victorian Healthy Homes Program: Research findings’ (2022) 52).

⁵³ Financial Counselling Australia, ‘It’s credit, it’s causing harm and it needs better safeguards’ (2021) 5.

⁵⁴ Ibid 9.

- Can be paid off in small manageable amounts.
- Fill the cashflow problem many people who live hand to mouth experience.
- Have a psychological component - they can make people feel like they can afford things and give them control.

All of these positive aspects of credit products should be available to manage payments in the energy system, without the downside of fees and debts.

Recommendation 10

That IPART's final report should highlight the growing trend to afford energy bills by accessing BNPL and other credit products and encourage the NSW Government to look further into this issue including:

- *Requiring retailers to make contact with consumers who pay their energy bills directly using credit products and letting them know that they can help them with payment options that do not require paying additional fees.*
- *Improving access to payment plans and bills smoothing so that they are as easy and empowering to access, use and change as credit products are.*

6. Assistance

Hardship programs

Despite all energy retailers being required to provide assistance to people experiencing payment difficulties, ASF found it was difficult to access a hardship program. ASF experienced:

- Three retailers (two of them were 'big three' retailers) actively avoided discussing a hardship plan and ASF found they had to insist that their clients needed to be in the program.
- At least one retailer denied they even had a hardship program.

As discussed in chapter 5 Vulnerability, people prioritise paying their energy bills and do many things, such as cutting back on using energy or other essentials and/or going into debt in order to stay connected. Retailer hardship programs and other retailer assistance are an essential part of ensuring people can use the energy they need without going into debt. Access to hardship and other retailer assistance should be as easy and empowering as accessing credit products are, without the additional costs or risks. IPART's retail monitoring role should include some examination of the experiences with and outcomes from hardship programs, payment plans, bill smoothing and Centrepay for NSW consumers.

Recommendation 11

That IPART's final report should include some examination of the experiences with, and outcomes from, hardship programs, payment plans, bill smoothing and Centrepay for NSW consumers.

NSW Government supports

While IPART's suggestion of further awareness raising of existing assistance measures is welcome, IPART's energy retail monitoring role should include assessing whether NSW Government energy supports are being received by the people who need them most and whether they are adequate supports for energy affordability for the people who do receive them.

Rebates – access for people currently eligible

Whilst undertaking Save4Good, ASF found 21% (84 out of 392) of households eligible for a rebate were not receiving it/them. Reasons eligible people were not receiving rebates included:

- people did not know they existed;
- they thought they were receiving it;
- they did not understand their conversation with the energy retailer;
- they did not know how to access it; and/or
- they thought they would automatically get it when they were eligible.

No one eligible for the Life Support Rebate or the Medical Energy Rebate (MER) indicated their GP had raised accessing the rebate with them.

Participants in Save4Good and ASF contacting retailers on behalf of participants reported that no retailer asked about eligibility for the Low Income Household Rebate (LIHR) or any other rebate⁵⁵ except for the Medical Energy Rebate (MER), despite the requirement that retailers inform their consumers of the availability of rebates.

ASF also identified address mismatch issues where the energy supply address did not match the concession card address (issued by Services Australia) which meant that otherwise eligible people were not able to get their rebates:

- The Coomaditchie Aboriginal community had this address mismatch problem, which meant that members of the community were unable to get rebates. ASF attempted to resolve this issue but were unable to.
- Another client had a Veterans Affairs card address mismatch. The client had low English proficiency and it took ASF six hours of phone calls to resolve the issue.

PIAC has heard from financial counsellors that this address mismatch issues occurs in other Aboriginal communities. EWON is aware of this problem as well and raised it in relation to the One Form for Rebates process.

This indicates that many disadvantaged people are not able to receive rebates. It is unlikely that retailers will be able to address this issue and it is likely to be more efficient for the NSW Government to set up a process to manually approve rebates where this address mismatch issue

⁵⁵ Retailers may have asked about rebate eligibility, but no participant or ASF could recall being asked, indicating that if they were asked, it was not done effectively.

occurs. This could be extended for situations where people have name mismatch issues preventing them from accessing rebates.

Recommendation 12

That IPART raise with the NSW Government a process to manually approve rebates where there are address mismatch issues between supply addresses and Services Australia addresses. This could be extended for situations where people have name mismatch issues.

Rebates – requirement for best offer notification

Despite the NSW Government requirement that rebate recipients be contacted by their retailer at least every 12 months and offered the best deal for their circumstances, ASF found that 90% of rebate recipients were not on their retailer's best offer, with some rebate recipients on very high tariffs. On average, \$232 of the \$285 annual rebate was wasted by being on a higher retail offer than they could have been. This should be regarded as a failure of the retail market to deliver acceptable outcomes for NSW rebate consumers and noted or investigated further by IPART.

Rebates – design

The existing rebate eligibility is relatively narrow and does not include large groups of people for whom assistance is needed, including low income working families and many renters on low income.

IPART could recommend to the NSW Government that they review the range of assistance measures available to support affordable access to energy and look at how the energy system transition objectives and energy affordability objectives can be better met by reform of assistance measures, including programs to electrify households, improve energy efficiency in homes, accelerate access to advanced metering and improved access to demand reduction/response programs.

For example, the NSW Peak Demand Reduction program that IPART will administer could be incorporated into these responses. Options for percentage-based rebates should also be explored, particularly in the current context of high energy costs.

The NSW Energy Social Programs Annual Report 2020-21 showed that only 11% of eligible households are receiving the Family Energy Rebate (FER). In a meeting in 2021 with the Department of Planning, Infrastructure and Environment (DPIE) when asked about the NSW Energy Social Programs Annual Report 2019-20 report where only 11% of eligible households received the FER as well, DPIE staff indicated that about half of the FER recipients received the full amount (\$180) with the other half receiving the part payment (\$20) because they also received the Low Income Household Rebate.

The low uptake of the FER indicates that there are problems with knowledge of the rebate, issues with the application process and/or that there are low numbers of people eligible for the full amount of the rebate and that the application process is a barrier to people applying for the part payment (ie the effort is not worth \$20).

Considering money is budgeted for this rebate but families are not benefiting from it, there is an opportunity to redesign the rebate. Options include (but are not limited to):

- Keep the rebate as it is but broaden the eligibility criteria and/or make an easier application process. This could be done in conjunction with a more graduated or percentage-based payment.
- Completely redesign the rebate to be a program with more tailored assistance, for example to deal with debt build up. This could use delivery methods similar to EAPA but for people with longer term affordability issues, and/or assisting with longer term affordability through energy efficiency measures. Linking this sort of program with other programs such as the Energy Saving Scheme would lead to more substantial benefits and better outcomes for NSW consumers in need.

The *NSW Energy Social Programs Annual Report 2020-21* shows that the gas rebate is provided to 323,000 to dual fuel homes. Forgoing this rebate (as is done as part of the Solar for Low income Homes/Bill Buster program) in exchange for disconnecting from gas and swapping out gas appliances for efficient electric ones is an opportunity to help households by avoiding gas bills, improving indoor air quality for low income households (and help reduce subsequent health problems such as asthma), reducing greenhouse gas emissions, and helping to ensure low income households are not disproportionately impacted by high gas prices and the stranded asset risk of gas networks. In the longer term such a program would save the NSW Government the cost of ongoing gas rebates, as well as other energy and health related costs.

Recommendation 13

That IPART's final report recommend the NSW Government explore options for improved design of NSW rebates to create better outcomes for consumers, reducing carbon, whilst saving the NSW Government money in the longer term.

Energy Accounts Payment Assistance (EAPA)

As noted in chapter 4 Vulnerability, ASF found that arrears were usually between \$1,800 and \$3,500 and exceeded available EAPA assistance under current criteria.

As part of PIAC's submission to the Office of Energy and Climate Change's (OECC) EAPA Review, PIAC gathered case studies from different community organisations. The case studies illustrated the variety of reasons people need payment assistance with their energy bills. The issues detailed illustrated systemic issues which are relevant considerations for reform of EAPA.

The case studies illustrated the following themes and issues:

- Where there is a short-term crisis and EAPA works well to avoid disconnection/debt collection and help to get a person back on their feet financially.
- Where debt is still unmanageable after EAPA is applied. In these situations:
 - A fuel neutral EAPA (ie \$600 towards energy expenses, not \$300 for electricity and \$300 towards gas) would have helped; and
 - Retailer matching of EAPA, or other co-ordinated measures would have helped.
- Where the debt accumulated is so high and the person's circumstances limit their ability to ever repay it there needs to be:

- A process to wipe debt;
 - Investigation into how a retailer allowed a debt to get so high;
 - On-going personalised support; and
 - Consideration of opportunities for people to remain on 'usage only' offers.
- Energy efficiency programs and other co-ordinated measures to reduce the energy used by the household are needed to help manage on-going usage.
 - Where a person lives in social housing and will never be able to manage their energy (or other) bills, include affordable energy as part of their payments to the housing provider rather than through a private retailer. This could potentially enable energy payments to be capped at a proportion a person's fixed income.
 - The value of being able to get EAPA through Service NSW, but also the need for more options to apply for EAPA in person and the value of the wrap around services that community organisations can provide people seeking EAPA.
 - Making the EAPA application process as simple as possible without it creating additional stress or shame.
 - Communication around wait times to alleviate stress. (We are pleased to hear from OECC that wait times for EAPA have now reduced. Several case studies outlined issues with the long wait times. However, even when the wait time is only two to four weeks, we have heard that this is an issue for people with anxiety disorders and/or have other concerns which means they forget about their application. Regular correspondence assuring people that their claim is still on a wait list or being processed and whether they need to take any action could help alleviate this).
 - Lack of identification and consideration that the NSW Photo Card be used for on-line applications for EAPA. (Lack of identification is also common in family violence situations, where identification documents are often kept by perpetrators as a way to control victim-survivors and their access to services, or victim-survivors flee their home without their documents. It is also difficult for people who are bed ridden to supply documents (and have long phone conversations). For people in family violence situations or who are bedridden, lack of identity documents is likely to be better dealt with in person or over the phone, which means it was difficult during the COVID-19 lockdowns when many services moved online).
 - Issues with paying bills by Centrepay (and bill smoothing) that mean people get into too much credit or do not pay enough to avoid high bills and it is difficult to determine the debt amount EAPA can be applied to.
 - Providing EAPA in \$50 increments means people might miss out on significant amount of assistance. In this case, as well as issues with bill smoothing, the value of flexibility in the provision of EAPA and a focus on better outcomes for recipients should be considered.

Recommendation 14

That IPART's final report highlight the need for improved design of EAPA to help people in long term need and with debt amounts that EAPA does remedy.

7. 'Renewable' gas and gas 'offsets'

'Renewable' gas

Considering the range of important issues not examined in this report PIAC queries why the section 'Renewable gas offers are on the horizon' was included in the Draft Report. The schemes involving the injection of other gases in the network are trials and are not subject to consumer choice (and cannot be regarded as an outcome of the competitive market). Importantly they are also not renewable and should not be characterised as such. Any blend below 10% has less than a 6% reduction in greenhouse emissions at best (this assumes that the hydrogen used in the blend is 100% sourced from non-grid-connected renewable energy). Given that the use of such blends dilutes the energy content of the resulting gas and may result in more gas being used, it is also questionable whether even this small gain is likely to be realised. Hydrogen is a smaller and more 'leaky' molecule and there are issues with effective mixing of hydrogen and natural gas which is likely to mean that hydrogen 'leaks' off in transit, meaning it does not contribute to the energy use of the consumer at all.

PIAC understands it is currently policy to consider facilitating gas blends in networks, but there is no reliable consumer-impact information in relation to these proposals, how much it will increase costs, any safety and efficiency implications for appliances, what the 'real' sustainability impact of the measure would be, and what the alternatives are. If IPART is to comment on the pursuit of these blends in the gas network, it should be to highlight the substantial consumer impact of the issues that are raised and to undertake robust analysis of the claims of such measures.

Recommendation 15

That IPART to reconsider the inclusion of, or how it includes, the section on 'renewable' gas in its final report to better reflect the nature of gas blending trials and their likely impact on costs for consumers.

Gas 'offsets'

The gas offset programs currently offered do not offer a meaningful or reliable carbon neutral option for gas use and, in fact, represent a serious failure of consumer information. The opaque and unreliable offset measures are often a means of 'greenwashing' the continued use of a powerful (and costly) climate change driver (methane).

Schemes accredited under Climate Active are under serious question⁵⁶ and there is no consistency and clarity around retailers offset programs, how offsets are undertaken and how robust they are.

These are important aspects of how consumers engage with the retail market and rather than simply presenting the corporate information regarding these schemes, IPART should be examining how consumers experience this aspect of the market, consumer confusion on green accreditation, confusion with purchasing renewable energy, the real risks of greenwashing and

⁵⁶ The Commonwealth Government is undertaking a review of Australian Carbon Credit Units because "Concerns have been raised recently about several aspects of Australia's carbon crediting system, including the integrity of its key methods and the Australian carbon credit units issued under it."
<https://minister.dcceew.gov.au/bowen/media-releases/independent-review-accus>

existing concerns around offsetting schemes that call into question the net-zero and carbon neutral claims being made by energy businesses.

Recommendation 16

That IPART's final report include an examination of offsetting products including how consumers experience this aspect of the market, consumer confusion on green accreditation, confusion with purchasing renewable energy and the risks of greenwashing to informed consumer decisions.

8. Embedded networks

PIAC does not agree with the principles underpinning the creation of a separate framework for embedded networks and retail exemptions. The framework for exemptions has created an incentive to use embedded networks and exempt selling arrangements as an additional or improved revenue stream in new developments, and to improve the profitability of commercial operations through providing a poorer, less reliable, less affordable, unsafe or less supported essential service to NSW residents residing in embedded networks. This does not support or promote the interests of consumers, but rather it creates an inequality of service expectations and protections that leave many residents served by embedded networks and exempt sellers, materially disadvantaged and more vulnerable.

A comprehensive picture of the impacts of embedded network and exempt selling arrangements on NSW residents is difficult as there is little visibility of how many residents are covered by such arrangements and what their circumstances are. Neither the AER nor the NSW Government keep appropriately comprehensive and transparent public records of the number of embedded network and exempt selling arrangements in NSW, how those arrangements are configured, how many people are involved, and what outcomes they receive relative to key consumer outcomes of price; billing transparency; payment assistance and protection; usage; and disconnection.

Without comprehensive information on the circumstances and outcomes of consumers served by these arrangements, these residents are disadvantaged, through an inability to provide detailed, quantitative evidence. This contrasts with residents served in standard retail and network arrangements where monitoring and information (though not perfect) is more consistent and transparent.

Many people in embedded networks are unlikely to have the option to access their energy from an authorised retailer and many cannot alter their tariffs through their exempt provider. Despite improvements to supports made as part of recent updates to the Retail Exempt Selling Guideline, access to assistance is not equal to that available to people accessing their energy from an authorised retailer. For example, there is no requirement that exempt sellers proactively identify people experiencing payment difficulties. In addition, provision of effective supports, assistance measures and disconnection protections are inconsistent within exempt sellers and non-existent in many, with monitoring and enforcement inadequate.

Residing in an embedded network or being served by an exempt seller should not provide a NSW resident with less assistance and support than others, particularly where many embedded network residents (such as those in social housing, retirement and nursing homes, and residential parks) may be some of the most vulnerable members of the community.

Energy Accounts Payment Assistance (EAPA) is an important financial support provided by the NSW Government through the Social Programs for Energy Code. It is designed to help people in sudden financial crisis or emergency stay connected to their energy service. Currently, many people living in embedded networks are not eligible to receive EAPA due to program policies and issues with consistent transparent billing.

Regulation of the energy used to chill and heat water in embedded networks

PIAC supports regulation of energy embedded in the provision of other unregulated services, such as that used to chill or heat water. PIAC is concerned about the numerous consumer issues with the sale of chilled and hot water in embedded networks. Loopholes should not allow some businesses to 'choose' their regulation and prevent people's access to appropriate consumer protections including billing and access to ombudsman services.

Recommendation 17

That IPART be explicitly required to investigate and report on embedded network and exempt selling issues in its annual energy retail monitoring report, including having access to numbers of people in embedded networks, the exemption class, the structure under which they pay for energy as well as access to actual bills. This should include assessing impediments to accessing EAPA as well as the sale of hot and chilled water.

9. Continued engagement

PIAC welcomes the opportunity to meet with IPART and other stakeholders to discuss these issues in more depth.