

Submission to the NSW Office of Energy and Climate and NSW Treasury, Ministerial Statement of Expectations: Protecting NSW customers of embedded networks

31 March 2023

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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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Contents

- 1. Introduction 3
- 2. Principles for implementation of equitable consumer and price protections for embedded network customers..... 3
 - People should have equivalent protections and supports regardless of where they live..... 3
 - Prioritise consistency of outcomes across NSW 4
- 3. Comments on the Draft Ministerial Statement of Expectations: Protecting NSW customers of embedded networks 5
- 4. Comments on the Embedded Network Action Plan – Improving outcomes for customers of embedded networks 8
- 5. Additional recommendations from the Committee’s Report and the NSW Government’s response..... 10
- 6. Continued engagement 15

Recommendation 1

That the NSW Government also consider the future of gas embedded networks as part of this process, developing equivalent consumer protections and considering the future of the embedded networks in relation to household energy efficiency and electrification.

Recommendation 2

The SoE should be founded on the principle that all NSW households must have equivalent access to the energy they need and equivalent protections and supports regardless of where they live.

Recommendation 3

The NSW Government prioritise the interests of NSW households in embedded networks and progress reforms independently of consistency across jurisdictions.

Recommendation 4

Without delay, the NSW Government collect data on embedded networks including how many embedded networks there are; what business structures are in operation and how many people live within these arrangements; and key consumer outcomes (including price, billing, payment assistance and protection, usage, disconnection and access to EWON).

Recommendation 5

That IPART focus more explicitly on embedded network and exempt selling issues in its annual retail energy monitoring.

Recommendation 6

Have a broad definition of the supply of hot and chilled water to ensure providers are not able to circumvent requirements.

Recommendation 7

Develop a process to ensure all consumers can still get fair, transparent billing and access to protections even where there is currently no dedicated water meter and gas or electricity meter.

Recommendation 8

Consumers in hot or chilled water embedded networks should receive the protections required of authorised sellers.

Recommendation 9

The NSW Government must address the lack of effective monitoring and enforcement in NSW embedded networks, ahead of, or as an alternative to, progressing these issues at a national level.

Recommendation 10

The NSW Government require the 'Better Bills Guideline' apply to bills for NSW residents of embedded networks.

Recommendation 11

The NSW Government follow up with NSW DNSPs regarding their concerns about high voltage embedded network installations.

Recommendation 12

The NSW Government include specifics about what the 'unique challenges' of RLLCs are, details about how they will engage with stakeholders and a timeline to implement solutions. This should be included in the Action Plan.

Recommendation 13

The NSW Government consider a NSW Government backstop retailer to provide (among other roles) protections for consumers in embedded networks (at least temporarily) where a retailer becomes insolvent.

Recommendation 14

Draw on lessons from EWON's digital campaign for embedded networks; provide in person outreach to reach certain embedded network communities; and provide accessible and translated information to ensure adequate information is available regarding access to complaints and dispute resolution.

Recommendation 15

The NSW Government include its intention to implement reforms to energy charging provisions in the RLLC Act in the Action Plan.

1. Introduction

The Public Interest and Advocacy Centre (PIAC) welcomes the opportunity to respond to the NSW Office of Energy and Climate Change (OECC) and NSW Treasury's consultation to the *Draft Ministerial Statement of Expectations: Protecting NSW customers of embedded networks* ('Draft SoE').

We commend the NSW Government for pursuing reforms that will better protect NSW consumers, including being a leader in proposing strong protections for people receiving hot or chilled water in embedded networks. We also support the NSW Government's commitment to ensure that future embedded networks are only approved where doing so is demonstrably in the long term interests of consumers.

We urge the NSW Government to also consider the future of gas embedded networks, which have the potential to lock consumers into a fuel supply that has not kept pace with efficiency and locks consumers into expensive and complicated processes to electrify later.

Recommendation 1

That the NSW Government also consider the future of gas embedded networks as part of this process, developing equivalent consumer protections and considering the future of the embedded networks in relation to household energy efficiency and electrification.

In this submission we outline the principles which should guide implementation of the NSW Government's objective to 'Provide more equitable consumer and price protections for embedded network customers'. We also comment on against the Draft SoE, the *Embedded Network Action Plan – Improving outcomes for customers of embedded networks* ('Action Plan'), and other recommendations made in *Report No. 3/57 of the Committee on Law and Safety* ('the Committee') – *Embedded networks in NSW* ('the Committee's Report'). We make further comment regarding the NSW Government responses to recommendations (published on 16 February 2023) that have not been included in the Draft SoE or the Action Plan.

2. Principles for implementation of equitable consumer and price protections for embedded network customers

People should have equivalent protections and supports regardless of where they live

All NSW households should have equivalent expectations in their access to the energy they need, and equivalent supports and protections for that access regardless of where they live. PIAC supports the NSW Government commitment 'to bring outcomes for embedded network customers in-line with those in traditional energy supply arrangements.'

Embedded networks can help enable better consumer outcomes, such as where they support household benefit from renewable energy and storage. However, the onus must be on the proponent of an embedded network to demonstrate that tangible beneficial consumer outcomes will be realised as a result. Approval on the basis of 'potential for benefit' is not acceptable. There

must also be robust, consistently applied, fit-for-purpose consumer protections in any embedded network arrangements that is allowed.

With very few exceptions, outcomes for consumers in embedded networks are often inconsistent and detrimental. Any potential consumer benefits are seldom realised (being absorbed by the operators in the form of reduced costs or increased revenue), or insufficient to outweigh the potential (and actual) harms and other impacts consumers experience as a result of being served through an embedded network.

The existing exemption framework fails to deliver on its intent and application of the framework should be limited to circumstances where good outcomes can be ensured. There should be no differentiation between aspects of energy that are regulated and those that are not, based on the business model or size of the provider. People served by small operators do not have lesser needs or rights than those served by larger operators. Regulation and protection of energy services should be based on whether any aspect of the service provision delivers an outcome impacting on people's dependable access to the energy they need. No residential consumers should be included in exemption categories regardless of how their services are provided.

Recommendation 2

The SoE should be founded on the principle that all NSW households must have equivalent access to the energy they need and equivalent protections and supports regardless of where they live.

Prioritise consistency of outcomes across NSW

The aim for the NSW Government and its agencies should be to capture as many NSW consumers as possible in the standard supply arrangements in the National Energy Consumer Framework (NECF) and for those who cannot be captured, to be protected by equivalent conditions. Whilst it is commendable that the NSW Government continues its efforts to advocate nationally for the protections for people in embedded networks, we question whether national consistency should be a priority. It may not even be particularly relevant when exempt sellers (for the most part) do not operate across jurisdictions and there are complex interactions in embedded networks with state-based tenancy and strata laws.

Changes at a national level are not being progressed despite a strong and growing consensus that changes must occur. The Committee largely agreed with findings from the Australian Energy Market Commission's (AEMC) 2017 report *Review of regulatory arrangements for embedded networks, Final report* and the AEMC's 2019 report *Updating the regulatory framework for embedded networks, Final report*. However, there is currently no process to implement any of the recommendations in these reports. In its 2022 update to the *Retail Exempt Selling Guideline*, the Australian Energy Regulator (AER) found no reason to consider that hot and chilled water constituted the sale of energy, yet the Committee found overwhelming argument that it should be considered in this way. This indicates there is unlikely to be any meaningful progress to protect consumers in embedded networks at a national level in the near future.

Since reforms at a national level have stalled, the NSW Government should work to progress consumer protection reforms itself.

Recommendation 3

The NSW Government prioritise the interests of NSW households in embedded networks and progress reforms independently of consistency across jurisdictions.

3. Comments on the Draft Ministerial Statement of Expectations: Protecting NSW customers of embedded networks

Below we comment on each of the five expectations of embedded network operators included in the Draft SoE:

1. The NSW Government expects customers of embedded networks to have equivalent consumer protections to on-market customers.

PIAC supports this expectation. We were disappointed that the AER's 2022 update to the *Retail Exempt Selling Guideline* fell far short of providing equivalent protections to consumers in embedded networks as the protections received by people in standard supply arrangements in the NECF.

This expectation will require improved reporting requirements, education, monitoring and enforcement, including ensuring that consumers in embedded networks know what their new rights are, what their expectations should be and how dispute resolution and enforcement operates. We have heard concerns expressed by financial counsellors and ARPRA (who represent residents in land lease communities) of a lack of transparency, and power and information imbalances in embedded networks, as well as inconsistent or non-existent provision of supports, assistance and protections measures. This is not surprising given exempt entities currently have minimal reporting requirements and the AER has few enforcement options.

Critical to the success of this expectation is for the NSW Government to know not just how many embedded networks there are, and how many people live within these arrangements, but also what business structures are in operation and how those arrangements are configured, and what outcomes consumers receive relative to key consumer outcomes of price; billing transparency; payment assistance and protection; usage; disconnection and access to the Energy and Water Ombudsman NSW (EWON).

Recommendation 4

Without delay, the NSW Government collect data on embedded networks including how many embedded networks there are; what business structures are in operation and how many people live within these arrangements; and key consumer outcomes (including price, billing, payment assistance and protection, usage, disconnection and access to EWON).

The Independent Pricing and Regulatory Tribunal (IPART) should assist in this process by focusing more explicitly on embedded network and exempt selling issues in its annual retail energy monitoring.

Recommendation 5

That IPART focus more explicitly on embedded network and exempt selling issues in its annual retail energy monitoring.

Although the NSW Government has been working to ensure access to rebates and plans to improve access to EAPA, ensuring otherwise eligible people can access these supports is also required.

The NSW Government also has a role to play beyond rebates and EAPA, looking at impediments to the higher standard of protections afforded to consumers in standard supply arrangements. This includes:

- Proactive identification of payment difficulties;
- More robust disconnections protections – including a principle that disconnection is a last resort and that a minimum debt amount be applied;
- A requirement to accept Centrepay; and
- Ensuring family violence protections are extended to embedded networks.

Consumer protections in embedded networks will need to keep pace with our changing understanding of vulnerability through mechanisms such as the AER's *Towards Energy Equity Strategy* and recognise the particular issues inherent in some embedded networks such as information and power imbalances; lack of reporting requirements and transparency; and possible reluctance to seek help (for example consumers may be afraid to ask for help for their energy bill knowing that the operator will then be aware that they may not be able to make their rent or other payments).

2. As soon as possible, and by 1 December 2023, hot and chilled water embedded network operators should bill customers for the energy input to the hot and chilled water supply only (e.g. cents per kilowatt hour or megajoules). Compliance with this requirement is expected where the centralised hot or chilled water system has a dedicated water meter and gas or electricity meter, supporting the calculation of a common factor for the energy input.

PIAC supports this expectation. Hot and chilled water are essential for health and wellbeing (chilled water being required to maintain healthy temperatures in buildings which lack cross ventilation or other means to cool). They are intrinsically linked to energy supply and as such are essential services.

Application of this expectation must be broad to ensure providers are not able to circumvent requirements (for example where hot water is instant and unmetered).

Recommendation 6

Have a broad definition of the supply of hot and chilled water to ensure providers are not able to circumvent requirements.

For situations where there are no dedicated meters, there needs to be a process, such as through benchmarking or retrofitting meters, to ensure all consumers can still get fair, transparent billing and access to protections.

Recommendation 7

Develop a process to ensure all consumers can still get fair, transparent billing and access to protections even where there is currently no dedicated water meter and gas or electricity meter.

3. The NSW Government considers that the sale of hot and chilled water, when billed in the energy input, is the sale of energy.

PIAC supports this expectation. Hot and chilled water are essential for health and wellbeing. They are intrinsically linked to energy supply and as such are essential services.

4. As soon as possible, and by 1 December 2023, hot and chilled water embedded network operators will apply the obligations for authorised retailers or exempted sellers under the National Energy Consumer Framework to the supply of hot and chilled water within the embedded network, ensuring customers are covered by basic consumer protections.

PIAC supports that consumers of hot or chilled water embedded networks have access to consumer protections afforded to energy consumers. However, we are concerned that operators will choose the lesser consumer protections standards required of exempt sellers if given a choice between applying either the obligations for authorised retailers or exempt sellers. Whilst the consumer protections under the *Retail Exempt Selling Guideline*, were improved in 2022, access to assistance is not equal to that available to people accessing their energy through standard supply arrangements. For example, there is no requirement that exempt sellers proactively identify people experiencing payment difficulties and there are reduced disconnections protections.

If the NSW Government's aim is to address the issue of the disparity of experiences and outcomes between consumers in embedded networks and those who receive energy from authorised retailers, then consumers in hot or chilled water embedded networks should receive the protections required of authorised sellers.

Recommendation 8

Consumers in hot or chilled water embedded networks should receive the protections required of authorised sellers.

5. From 1 July 2023, authorised retailers selling electricity through embedded networks should comply with the relevant Default Market Offer (DMO) maximum price set out by the Australian Energy Regulator under the Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019.

PIAC supports the application of the DMO to the selling of electricity through embedded networks. However, we do have concerns about the way the DMO is calculated and we support IPART undertaking an investigation into whether the DMO should apply or a whether a more

effective or appropriate price protection method apply for consumers in electricity embedded networks.

Given people in embedded networks generally have no alternative service option and currently have less protections, transparency than standard supply consumers consideration should be given to providing them with more robust price protection than currently offered by the DMO.

Any methodology should be based on reasonable and efficient cost to serve and reflect the inability for consumers to seek alternative providers.

4. Comments on the Embedded Network Action Plan – Improving outcomes for customers of embedded networks

Below we comment on elements of the Action Plan which are not included in the Draft SoE:

Maximum price for energy sold to customers of hot and chilled water embedded networks and for gas networks

PIAC supports IPART determining a method to set fair maximum prices for hot and chilled water services, and gas services, in embedded networks. Fair prices should be a key element of consumer benefit underpinning any embedded network arrangements which are allowed.

Extending Energy Accounts Payment Assistance (EAPA)

PIAC supports access to EAPA being extended to all residents in embedded networks, including those in hot and chilled water embedded networks. All otherwise eligible residents in NSW should be able to access EAPA.

Currently, not all people in embedded networks are able to access EAPA, in part due to issues with consistent and transparent billing. While residents in embedded networks should be able to expect transparent and consistent billing, the NSW Government should consider reforms to EAPA which do not rely on it. This should include alternatives facilitating EAPA payments directly into the applicant's bank account. While not the preferred long-term solution, it would ensure people can access the support they need and are otherwise entitled to. This is already a process used to provide rebates for eligible people in embedded networks. This may also be a suitable solution where a consumer is able to identify that there are in complicated power relationships with their provider, which is particularly common in Residential Land Lease Communities (RLLCs).

IPART Review

PIAC supports IPART determining a method to set fair maximum prices for hot and chilled water services, and gas services, in embedded networks.

PIAC supports IPART considering 'whether new hot and chilled water in embedded networks are in the long-term interest of customers, and whether the NSW Government should ban their establishment by third party operators.' This review should consider broader issues where current allowable building density rules may mean that it is only feasible to have hot or chilled embedded networks (because there is not enough space for individual water heaters) and whether this is

appropriate. Given the aim of the NSW Government is ‘to provide more equitable consumer and price protections for embedded network customers,’ this review should include consideration about whether and/or how existing embedded networks for hot and chilled water could be integrated into requirements for standard supply consumers or even abolished.

PIAC supports IPART considering ‘whether a maximum price that is below the DMO price for electricity embedded networks is required, and a preferred methodology for such a maximum price.’ Any methodology should be based on reasonable and efficient cost to serve and reflect the inability for consumers to seek alternative providers.

Disclosure and consumer awareness

PIAC supports improvements to ‘disclosure and consumer awareness by ensuring prospective purchasers and tenants of a strata property are aware of the existence of embedded network arrangements prior to purchase or leasing.’ Disclosure and consumer awareness should be improved by ensuring prospective purchasers and tenants of any embedded network, including hot and chilled water embedded networks, are aware that it is an embedded network before purchase or lease. This disclosure should be included at time of advertising the property and again at inspection and be accompanied, in plain language, by what embedded networks mean for consumers in practical terms, including expected costs, reduced consumer protections, lack of choice and where to get further information.

Requirements regarding disclosure of embedded networks should be broad enough to capture embedded networks that do not currently exist. For example, changes to the standard residential tenancy form made in 2020 only captured electricity and gas. Providers of hot and chilled water embedded networks evaded this requirement (and other requirements) by charging for these services in litres. Consideration of wording must be broad enough to include and potentially deter future embedded network models (for example for electric vehicles (EVs)) which attempt to circumvent rules or laws and are not in consumers’ long term interests.

Although estimated energy cost savings may be difficult to calculate (Recommendation 9b in the Committee’s Report), this disclosure is an important concept: It requires developers and embedded network operators to show that there is an actual financial advantage to the embedded network, that will be passed on to consumers. If they cannot show an actual cost benefit, then consumers, and regulators, should consider whether these arrangements should be allowed. As such, we urge the NSW Government to look for options to support the Committee’s recommendation 9b.

Although disclosure and consumer awareness are important, care must be taken about how much is expected for consumers to comprehend and consider and how much agency they are able to exercise in agreeing to proceed. A person may sign the lease or contract, but this does not necessarily mean that they are freely choosing or agreeing to reside in an embedded network. Their agreement could instead be a result of lack of choice of housing options due to a tight housing market and/or lack of options they can afford. For many people, there is little option but to take any available property, regardless of concerns they may have regarding the embedded network.

Disclosure and consumer awareness is not a replacement for rigorous consumer protections. As expressed in the Committee's Report:¹ "I found it extraordinary that a government would allow such a manifestly unfair system to be in place for services that are essential."

Recommendation 120 of the Statutory Review of the *Strata Schemes Management Act* and the *Strata Schemes Development Act*

PIAC supports extending the application of section 132A of the *Strata Schemes Management Act 2015* (SSMA) for the supply of electricity through an embedded network so that limits are placed on electricity supply contracts (Recommendation 120 of the Statutory Review of the SSMA and *Strata Schemes Development Act 2015*).

National advocacy

PIAC supports:

- Improvement in consumer protections for embedded network consumers, including through the *AER Retail Exempt Selling Guideline*;
- Improving embedded network customer access to alternative retail service provision, including through access to a National Meter Identifier; and
- Ensuring that any new embedded networks demonstrate they are in the long term interest of consumers, and deliver actual benefits to residents.

PIAC does not consider it acceptable to rely on national processes to address these issues given embedded network reforms have stalled at a national level. The NSW Government's priority should be to address these issues and extend protections to NSW households who continue to experience poor outcomes.

5. Additional recommendations from the Committee's Report and the NSW Government's response

In this section we discuss recommendations in the Committee's Report and the NSW Government's response to the Committee's Report (dated 16 February 2023) which are not included in either the Draft SoE or the Action Plan.

2. That the NSW Government work with federal, state and territory governments and energy regulatory bodies to improve the compliance and monitoring regulatory framework for embedded networks.

The Committee raised the serious concerns about the inadequacy of monitoring and compliance in embedded networks. Efforts to improve outcomes for people in embedded networks cannot be successful without effective compliance and monitoring,

A crucial first step in achieving effective monitoring is for the NSW Government to collect data on embedded networks including how many embedded networks there are, what business structures are in operation and how many people live within these arrangements. The lack of this data is a key reason why cost-benefit analysis of national reform of embedded networks was not effective and underestimated the impact of the reforms.

¹ At page 34.

The issues highlighted by the Committee will either need to be addressed as part of the NSW Government's first item listed in the Draft SoE (the NSW Government expects customers of embedded networks to have equivalent consumer protections to on-market customers) or undertaken without delay at a national level. Given the delays to date in implementing consumer protections at a national level, the NSW Government should begin the process of addressing the compliance and monitoring issues raised in the Committee's Report.

Recommendation 9

The NSW Government must address the lack of effective monitoring and enforcement in NSW embedded networks, ahead of, or as an alternative to, progressing these issues at a national level.

3. That the NSW Government improve data collection regarding embedded networks, particularly to identify the number of residents living in embedded networks.

An accurate and comprehensive picture of the impacts of embedded network and exempt selling arrangements on NSW residents is impossible without data. There is currently no visibility of how many residents are covered by embedded network arrangements and what their circumstances and experiences are. Neither the AER nor the NSW Government keep appropriately comprehensive and transparent public records about embedded networks and their residents. This is a fundamental cause of ongoing disadvantage for embedded network residents.

Residents served by standard retail and network arrangements where monitoring and information (though not perfect) is more consistent and transparent benefit from the identification of systemic issues this enables. This information is not just relevant to the NSW Government to understand energy issues, but also for water supply and housing issues.

Given the AER appears unable or reluctant to address this issue, the NSW Government should immediately move to collect this information. Information collection should extend beyond 'the number of embedded networks and customers in NSW' as committed to in the response to the Committee's Report. IPART could assist in this process by focusing more explicitly on embedded network and exempt selling issues in its annual retail energy monitoring.

4. That the NSW Government implement a standardised billing structure requiring the itemisation of embedded network services

Currently, the only bill requirements that apply to exempt sellers are the insufficient requirements contained in the *Retail Exempt Selling Guideline*. The much more considered requirements contained in the AER's *Better Bills Guideline* do not apply to exempt sellers.

We are aware that bills received by residents in embedded networks often do not meet even the lower standard of requirements of the *Retail Exempt Selling Guideline* and often lack the most basic information. This lack of information is a barrier to people understanding their bills, having trust in their provider and service, as well as receiving supports like EAPA.

Considering that the latest version of the *Retail Exempt Selling Guideline* (published in July 2022), did not seek to include any aspect of the *Better Bills Guideline* (version 1 was published in March 2022), it appears the AER has little intention of extending billing requirements to exempt sellers, at least in the short term.

The NSW Government could work towards including all NSW consumers in standard supply arrangements framework by requiring the *Better Bills Guideline* apply to bills for NSW residents of embedded networks.

Recommendation 10

The NSW Government require the 'Better Bills Guideline' apply to bills for NSW residents of embedded networks.

7. That the NSW Government ensure obligations and requirements applying to embedded networks of different sizes in NSW legislation, including the Electricity Supply Act 1995 and the Service and Installation Rules, are clear and sufficient to protect consumers and maintain network safety.

Although the NSW Government has indicated that they have not identified any issues in relation to the safety of embedded networks, we note that the Committee's Report² outlines issues raised by NSW Distribution Network Service Providers (DNSPs) regarding safety concerns of high voltage embedded network installations. These concerns should be followed up with the DNSPs and any safety implications considered further.

Recommendation 11

The NSW Government follow up with NSW DNSPs regarding their concerns about high voltage embedded network installations.

8. That the NSW Government implement measures to ensure that network infrastructure, particularly in residential land lease communities, is maintained and upgraded where necessary to ensure the safety of and reliable supply to residents, including the consideration of the potential cost consequences for residents.

Residents in RLLCs are some of the most vulnerable residents in NSW and yet their needs are often neglected and reform of protection, regulation, monitoring and compliance too often avoided and regarded as being too difficult.

The NSW Government's response that it 'will continue to engage with stakeholders on this matter and develop solutions that meet the[ir] unique needs' must be accompanied by more specifics about what their 'unique needs' are, details about how they will engage and a timeline to implement solutions. Including this commitment into the Action Plan, rather than just in the Government's response to the Committee's Report, would send a strong message that the NSW Government acknowledges that regulations covering residents in RLLCs are not fit for purpose and they are committed to remedying this.

² A pages 30 to 32.

Recommendation 12

The NSW Government include specifics about what the 'unique challenges' of RLLCs are, details about how they will engage with stakeholders and a timeline to implement solutions. This should be included in the Action Plan.

10. That the NSW Government consider regulating embedded network contract provisions, including the term of the contract and conditions of termination, to ensure they are not unduly burdensome for consumers

PIAC is pleased the NSW Government plans to introduce legislative changes in 2023 to extend the application of section 132A of the SSMA for the supply of electricity through an embedded network so that limits are placed on electricity supply contract terms.

PIAC recommends legislative amendments to implement Recommendation 57 of the Statutory Review of the SSMA, regarding a prohibition on unfair terms in standard form contracts offered to owners corporations, also occur in 2023.

11. That the NSW Government implement a Retailer of Last Resort scheme to protect customers in embedded networks.

The NSW Government should consider developing a NSW Government operated Retailer of Last Resort (RoLR) for NSW consumers to provide protections for consumers in embedded networks (at least temporarily) where a provider becomes insolvent. This Government provider could have a role beyond being a RoLR for embedded networks and, for example, be a low-cost energy provider for households (both embedded network and standard supply) who experience on-going energy affordability challenges.

Recommendation 13

The NSW Government consider a NSW Government backstop retailer to provide (among other roles) protections for consumers in embedded networks (at least temporarily) where a retailer becomes insolvent.

12. That the NSW Government ensure there is adequate information available to consumers in embedded networks about access to complaints and dispute resolution services.

The NSW Government should draw on lessons from EWON's digital campaign for embedded networks to equip consumers about their rights and options regarding complaints and dispute resolution services. Consideration should be given to providing in person outreach to RLLCs, social housing embedded networks, retirement home embedded networks and other embedded networks where face to face communication may be more effective. Information will need to be given in plain language, community languages and be accessible.

Recommendation 14

Draw on lessons from EWON's digital campaign for embedded networks; provide in person outreach to reach certain embedded network communities; and provide accessible and translated

information to ensure adequate information is available regarding access to complaints and dispute resolution.

13. That the NSW Government work with AER and the Energy and Water Ombudsman NSW to ensure exempt entities become members of the Ombudsman

Given the AER's enforcement priorities for 2022-23 include improving outcomes for consumers in embedded networks, including by enabling access to Ombudsman schemes, we anticipate that access to EWON should improve for people in embedded networks by 30 June 2023. If this is not the case a new approach should be considered, such as escalating penalties for non-compliance by exempt entities.

Access to data regarding embedded networks in NSW will be key to ensuring networks join EWON and that no embedded networks are able to avoid EWON membership coverage.

15. That the NSW Government, in collaboration with the Energy and Water Ombudsman NSW, develop and implement measures to ensure that the cost of an Ombudsman investigation cannot be passed on to a consumer

Passing costs of EWON's services onto individual residents negates the benefits of accessing EWON. EWON services are meant to be free for consumers. If residents know that they might have to pay the cost of an investigation, they are less likely to seek assistance through EWON. This is an unacceptable undermining of a fundamental consumer protection (free access to independent dispute resolution) .

Clear, transparent billing with maximum charging is key to stopping cost pass throughs as is looking more broadly at housing legislation that allows costs to be obliquely passed through via other costs or charges to residents.

18. That the NSW Government appropriately educate and communicate with vulnerable communities about embedded networks, including ageing and culturally and linguistically diverse consumers, to ensure they can make an informed choice and seek assistance.

Education and communication about embedded networks must be in plain language, accessible, easily available in community languages and be culturally appropriate. Outreach work will likely be required for embedded network communities that have few connections to advocacy, support and/or access to the internet, such as RLLCs and social housing.

22. That the NSW Government urgently implement the recommendations of the 2021 statutory review of the Residential (Land Lease) Community Act 2013 (RLLC Act) relating to the charging of electricity in embedded networks

PIAC supports the NSW Government's intention to begin introducing the recommendations of the 2021 statutory review of the *Residential (Land Lease) Community Act 2013* (RLLC Act) relating to the charging of electricity in embedded networks from 2023. The legislation enabling these reforms should be introduced as a matter of priority.

Recommendation 15

The NSW Government include its intention to implement reforms to energy charging provisions in the RLLC Act in the Action Plan.

6. Continued engagement

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