NSW Government Consultation on Energy Consumer Policies

TENANTS' UNION OF NEW SOUTH WALES

March 2022

About the Tenants' Union of NSW

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

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

About this submission

This submission addresses a select few of the issues discussed in the NSW Government Consultation on Energy Consumer Policies paper — those with most relevance to renting households. We provide recommendations in relation to:

- Meters and meter boards
- Hot water embedded networks
- Distributed energy resources
- Community batteries and emerging technologies
- Information about energy technologies and the digitalisation of communication
- The Life Support Rebate
- Embedded network data

More broadly, we discuss our concerns with the overreliance on market forces to manage the energy system. Instead, effort should be made to implement strong regulation that ensures all people, regardless of tenure or income, can access a fair energy deal without needing to undertake onerous research and develop an understanding of the nuances of the energy system.

More information

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

Recommendations

Recommendation 1

Energy policy should be led by an overarching objective that ensures the NSW energy system is efficient, equitable and affordable to all consumers regardless of tenure or income and is moving along a clear pathway to a zero-carbon economy.

Recommendation 2

Minimum energy efficiency standards should be introduced for rental homes in NSW.

Recommendation 3

Strong regulation should be introduced surrounding the costs associated with meter replacements, including:

- Price regulation.
- Ensuring consumers do not face up-front costs.
- Should up-front costs be incurred, these must be borne by the landlord and not the tenant.

Recommendation 4

The NSW Government should commit to, and plan for, universal smart metering by 2026, including for embedded network consumers. This plan should ensure pricing structures do not act as a penalty and increase the overall cost to consumers.

Recommendation 5

Meter board replacement costs should be tightly regulated, and there should be no up-front costs to the consumer, unless the consumer opts to pay up-front. Should up-front costs be incurred, these must be borne by the property owner and not the renter.

Recommendation 6

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

Recommendation 7

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

Recommendation 8

The NSW Government should create and implement a plan for the distribution of DERs that will have the best consumer and climate outcomes in the broader context of the energy system, and that contains specific steps to ensure renters are not locked out of the clean energy transition.

Recommendation 9

The NSW Government should continue to support the development of 'solar gardens' and other solutions that allow consumers to access and support the development of renewable energy without needing the necessary control and ongoing access to their roof space. There should be a particular emphasis on expanding access to these renewable energy solutions to renters and land lease community residents.

Recommendation 10

Should the proposal to set up a sustainable homes information hub and concierge service be taken up, it must be ensured that accessing information through these services is not necessary for a consumer to be able to access a fair, efficient energy deal.

Recommendation 11

Should the proposal to set up a sustainable homes information hub and concierge service be taken up, both must contain renter-specific information.

Recommendation 12 & 13

Digitalised communication channels should be introduced between distributors and consumers as an additional channel, rather than as a replacement for existing channels.

Should digitalised communication channels replace existing channels, a specific plan should be put in place to assist older people and others who cannot access computers and are unfamiliar with technology to continue to access equitable communication with their energy distributor.

Recommendation 14

A system should be put in place to ensure that consumers do not have to resubmit evidence to access the Life Support Rebate each time they change retailers or move house.

Recommendation 15

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

1. Clear objectives for NSW energy policy

We are concerned that the way in which the Consultation Paper frames the policy issues it explores may not lead to effective solutions. The paper tends to raise a variety of issues framed as separate issues, and asks questions relating to removing barriers and improving consumer choice, in relation to each individual issue. This risks that solutions to discrete issues are developed without recognising impacts on other factors. We recommend an approach to reform energy consumer policies that recognises these issues as interlinked in a system. The approach should set out clear objectives and principles to underpin the entire system and then look at ways in which to achieve those objectives in line with identified principles and within appropriate timeframes. We suggest an appropriate overarching objective would be to ensure that the NSW energy system is efficient, equitable and affordable and will support all consumers regardless of tenure or income through the transfer to a zero-carbon economy.

Energy is an essential service, and as such an approach that privileges consumer choice and market forces is not appropriate — instead the principle of equity should be paramount. Moves within the energy sector to improve consumer awareness and ability to make choices are positive, but we need to build an energy system that ensures fair consumer outcomes regardless of whether that consumer accesses further information and makes choice assessments. Consumer ability to make choices should be a secondary consideration, rather than necessary in order for that consumer to be able to access a fair energy deal.

This is particularly important where renters are concerned, as renters are at a significant disadvantage when it comes to energy efficiency of homes, and by extension the energy costs they incur in order to keep their homes healthy and functional. Renters have far less control over the efficiency of their rental home than owner-occupiers due to the additional barriers renters face making adaptations to their homes to make them more efficient, such as installing sufficient insulation, window-glazing, sealing of doors and windows, installing energy-efficient heating and cooling systems, and more. They face both the difficulty of requesting permission from their landlord to make alterations to their homes, and the problem of the split incentive whereby renters themselves aren't incentivised to spend money to make improvements to their home's energy efficiency when they know they could potentially face eviction at any time, but landlords are not incentivised to make improvements as they are not the ones paying the energy bill. In this context, reliance on market forces will never give renters a fair go no matter which retailer they choose and how much research they have carried out, if their home is energy inefficient. The introduction of minimum energy efficiency standards for rental homes in NSW is an important component of achieving the objective of ensuring that the NSW energy system is efficient, equitable and affordable and will support all consumers regardless of tenure or income through the transfer to a zero-carbon economy.

Recommendations

- Energy policy should be led by an overarching objective that ensures the NSW energy system is efficient, equitable and affordable to all consumers regardless of tenure or income and is moving along a clear pathway to a zero-carbon economy.
- Minimum energy efficiency standards should be introduced for rental homes in NSW.

2. Meters and meter boards

The Discussion Paper relies heavily on the aim to improve provision of information to consumers as a way for consumers to make an informed choice within the market. We support the recommendations from PIAC relating to equitable smart meter rollouts, including significantly improved regulation of the costs associated with meters, and the return of metering from Retailers to Distributors. There should be no up-front cost to any consumers for the installation of smart meters, and any costs passed on to consumers over the life of their meter use should be tightly regulated. Should a decision be made to continue to allow up-front cost to consumers for the installation of smart meters, in the case of rented homes this cost must be incurred by the landlord and not the tenant. We recognize that some difficulties may present themselves due to the transfer of metering from distributors to retailers. Where a property is rented, the landlord remains attached to the property, and by extension the meter on that property, but the meter itself is property of the retailer - which has a contract with the tenant and not the landlord. Should the recommendation to ensure that consumers incur no up-front costs not be taken up, then some instrument should be implemented to ensure any up-front costs are incurred by the landlord and not the tenant, despite the tenant being the party with a contract with the retailer.

We support PIAC's call for a commitment to, and plan for, universal smart metering by 2026. This timeframe should include smart meter upgrades for all embedded network consumers. However, this commitment must also ensure that consumers, particularly many renting households, are not pushed to time-of-use pricing that acts as a financial punishment to households with limited ability to change energy usage behaviour and limited access to energy generation and storage solutions that complement smart meters. Tariff structures must ensure households are not worse off through the upgrade.

It is also important to note that landlords at present can sometimes push back against the installation of smart meters as they do not want interference with the property. This leaves some renting households unable to access the benefits associated with smart meter upgrades. It would be reasonable for the NSW Government to make a commitment to updating NSW tenancy law to ensure that landlords cannot refuse a smart meter installation.

Meter board replacements present some similar issues to meter replacements, with additional complexities for renting households. Unlike meters, meter boards are the property of the homeowner. For all consumers, issues arise where a property's meter board cannot accommodate a smart meter, where smart meters may eventually be

compulsory. Consumers may think they are having a relatively straightforward meter replacement, only to later be billed sometimes substantial amounts (this can be a bill into the thousands) as the meter board has had to be replaced in addition to the meter. Where meter replacements are voluntary, this presents less of an issue as the potential meter board replacement can be considered, but if meter upgrades in future become mandatory as the smart meter rollout progresses, this may present serious problems.

Renters face additional difficulties in relation to meter board upgrades. Renters are attached to energy bills and the energy retailer, and by extension, the meter and installation of a smart meter. However, the landlords, as owners of the properties, are the owners of the meter board. In cases where a landlord refuses, or is unable to afford, the replacement of a meter board, this leaves renters unable to access the benefits of a smart meter. This reinforces the need for the principle that all property owners, landlord or owner-occupier, should not face any up-front costs in relation to the replacement of meters, including where a meter board needs to be replaced.

We support the proposal by PIAC to regulate meter board replacement costs through surveying the types of remediation that are necessary in order to carry out the replacement, and creating a schedule of works. Consumers should then be offered various payment options for the regulated payment amount, including up-front payment, or for the cost to be recovered from that energy connection over time. Meter board replacement costs must never be passed on to renters, and must be incurred in their entirety by the property owner. We have seen in other roll-outs such as the National Broadband Network that despite advice on government and industry body websites, tenants are being asked to pay charges such as the $300 development charge, despite only being guaranteed the benefit of the network for a matter of months. Energy policy must learn from these past experiences.

Recommendations

- Strong regulation should be introduced surrounding the costs associated with meter replacements, including:
    - Price regulation
    - Ensuring consumers do not face up-front costs
    - Should up-front costs be incurred, these must be borne by the landlord and not the tenant

- The NSW Government should commit to, and plan for, universal smart metering by 2026, including for embedded network consumers. This plan should ensure pricing structures do not act as a penalty and increase the overall cost to consumers.

- Meter board replacement costs should be tightly regulated, and there should be no up-front costs to the consumer, unless the consumer opts to pay up-front. Should up-front costs be incurred, these must be borne by the property owner and not the renter.

3. Hot water embedded networks

Embedded network hot water customers should be able to access the consumer protections provided within the *NSW Water Industry Competition Act 2006* (WICA), and as such, hot water embedded network operators should be required to obtain a WICA licence. The loophole within current regulations allowing hot water embedded network operators to bill hot water as water rather than as the energy related to it leaves embedded network consumers vulnerable to significant exploitation and disadvantage, due to the lack of regulation surrounding the billing of water. We support the option of requiring the sale of hot water to be billed in the underlying source of energy (in cents per megajoule or cents per kilowatt hour, depending on whether it was heated with gas or electricity) rather than as a hot water product (in cents per litre).

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

Recommendations

- Hot water embedded network operators should be required to obtain a WICA licence.
- Sale of hot water in embedded networks should be billed in the underlying source of energy rather than as a hot water product.

4. Distributed energy resources

Renting households are disproportionately locked out of access to distributed energy resources (DERs), leading to poorer health, financial and climate outcomes. This is due to the problem of the split-incentive. Renters do not have sufficient incentive (even if they have the finances) to pay to install DERs at properties from which they could be evicted well before recouping the costs of installation and having made a substantial improvement to the property. Landlords do not have sufficient incentive to install DERs at properties as they neither feel market pressure through either rent pricing or capital gains to improve their premises nor receive the financial benefit directly.

It is important to recognise that split incentives apply to every other feature of the premises - the landlord paid for the walls, roof, windows and so on but the tenant receives the benefit. The differences are that solar panels attract a specific tariff which highlights the value, and they are not currently required as part of a landlord's obligation to ensure premises are habitable.

Returning to the overarching objective of ensuring equitable access to energy through the transfer to a zero-carbon economy, the approach taken in relation to DER installation in

the consultation paper is inappropriate. Rather than barrier-removal, the focus should be creating and implementing the optimal DER distribution plan, that will have the best consumer and climate outcomes in the broader context of the energy system. Such a plan must contain specific steps to ensure renters are not locked out of the clean energy transition, and emphasise an approach that will overcome the problem of the split incentives.

In the context of this discussion paper and the questions it raises, an example of where the approach must fundamentally change is in relation to the question of regulating the size of solar panels, due to issues that may arise when a panel larger than is required is installed on someone's home. When looking at the overarching goal of optimising the transition to a zero-carbon economy, it is clear that there should not be limits on the size of solar panels that consumers are allowed to install — consumers should be supported to install solar panels as large as they would like to or are able to and other elements of the energy system, such as metering and pricing, should be built in such a way as to make the most of additional solar power.

We strongly recommend the ongoing development of 'solar gardens' and other solutions that allow consumers to access and support the development of renewable energy without needing the necessary control and ongoing access to their roof space. Current barriers can be overcome with greater government support and involvement in their creation to assist with funding gaps. Requiring all retailers to accept credits from a solar garden rather than current models that often tie consumers to a single retailer will also significantly increase the attractiveness.

Solar installation models that trade-off rent for energy should be avoided. There are a number of reasons for this. In commercial models and interstate models we have seen that while the rent increase is baked into the contract, the energy benefit is variable and may not eventuate, leaving the renter with little recourse. They may also rely on a contract negotiation between two parties of significantly imbalance power, leaving the renter unable to negotiate in a meaningful way and receiving very minimal benefit.

It also presents a risk of setting in place a poor principle for renting otherwise — that of monetising individual segments of the property rather than the premises as a whole. If the roof space and solar panel is worth a particular amount, how are the door, windows or installed oven, to be valued in relation to their contribution to thermal comfort and energy costs. A solar panel on a rented home is most appropriately seen as another feature that is provided as part of a modern home and as a capital improvement, not as a monetisable asset itself.

Land lease community residents are generally older people living on statutory incomes, or self-funded retirees. Those residents in particular who are provided with energy through an embedded network do not have access to the general energy market and therefore no control over their supplier, meters or energy charges.

Land lease community residents in embedded networks are unable to make independent decisions about clean energy solutions. Permission is required from the community

operator to install a solar system and if permission is granted, the operator often retains the right to disconnect the system if, in their view, it is affecting the operation of the embedded network - even where this may be because of a lack of reasonable maintenance and upgrading of the network. Additionally, residents may not receive a tariff from the operator for any energy they feed into the network.

Land lease communities are ideally suited to clean energy solutions such as community batteries or solar gardens. A whole-of-community approach to clean energy would alleviate the problems faced by individuals and provide access to those currently unable to access any clean energy systems. There would also be benefit to the operator.

Barriers to community solutions are likely to be financial. Community operators have in the past demonstrated a reluctance to invest in energy infrastructure and network upgrades. The NSW Government could support clean energy solutions in land lease communities through financial assistance to operators.

Recommendations

- The NSW Government should create and implement a plan for the distribution of DERs that will have the best consumer and climate outcomes in the broader context of the energy system, and that contains specific steps to ensure renters are not locked out of the clean energy transition.
- The NSW Government should continue to support the development of 'solar gardens' and other solutions that allow consumers to access and support the development of renewable energy without needing the necessary control and ongoing access to their roof space. There should be a particular emphasis on expanding access to these renewable energy solutions to renters and land lease community residents.

5. Energy customers' digital journey

Consumers should not be required to access certain information in order to access a fair, efficient deal for the essential service that is energy. Consumers should not be made responsible for protecting their own interests by knowing and understanding the complexities of the energy system. Falling back on consumer choices and the market is inappropriate in relation to the provision of an essential service: the system should be tightly regulated and built to ensure all people are able to access a good energy deal without needing to put in work by "shopping around".

Provision of information to consumers is a positive thing, and we support the proposals to create a sustainable homes information hub and concierge service — however these should function to enable interested consumers to make genuine choices. Consumers without the capacity or interest to access this information should not be disadvantaged. Should the proposal to set up a sustainable homes information hub and concierge service be taken up, both must contain renter-specific information.

We acknowledge the benefits of digitalisation of communication between energy distributors and consumers, and generally support expanding the available channels of communication between services and consumers. However, we are concerned with language that implies digital channels will replace, rather than be introduced in addition to, existing channels. Many consumers are not technologically literate, and would be harmed by a complete shift to digitalised communication. Many older people, particularly those in Land Lease Communities, do not have computers, and are unfamiliar with technology - many would be unable to access information, change plans or communicate with service providers online. Digitalised communications would be a useful addition to current communication channels, but should not be a replacement. Should a choice be made to replace current communication channels with digital channels, a specific plan should be put in place to assist older people and others who cannot access computers and are unfamiliar with technology to continue to access equitable communication with their energy distributor.

Recommendations

- Should the proposal to set up a sustainable homes information hub and concierge service be taken up, it must be ensured that accessing information through these services is not necessary for a consumer to be able to access a fair, efficient energy deal.
- Should the proposal to set up a sustainable homes information hub and concierge service be taken up, both must contain renter-specific information.
- Digitalised communication channels should be introduced between distributors and consumers as an additional channel, rather than as a replacement for existing channels.
- Should digitalised communication channels replace existing channels, a specific plan should be put in place to assist older people and others who cannot access computers and are unfamiliar with technology to continue to access equitable communication with their energy distributor.

6. Life Support Rebate

Consumers who move house or change Retailer should not be obliged to resubmit evidence in order to continue to access the Life Support Rebate. Many renters in NSW move house quite regularly - often due to circumstances beyond their control. If a change is introduced to require that evidence be resubmitted each time a person moves house or changes Retailer, this can be a significant deterrent and could cause financial harm for renters. After several moves, a renter - particularly a renter with complex medical needs - may stop continually resubmitting paperwork, and thus stop receiving a rebate to which they are entitled. Alternatively, a renter may be deterred from switching Retailers to one where they would have a better deal, out of concern over having to resubmit their medical evidence. The NSW Government has the rebate and technical architecture to manage and maintain records of medical evidence themselves, which should remain available each

time a consumer moves house or changes retailers, without the onus on the consumer to re-collect and resubmit evidence.

Recommendation

- A system should be put in place to ensure that consumers do not have to resubmit evidence to access the Life Support Rebate each time they change retailers or move house.

7. Embedded network data

The TU supports the collection of data from embedded network operators. In our view, data on child connection points should be reported to the AER. This will ensure the data is held centrally and is accessible as a full data set.

It would be useful for embedded network operators to report on the age and types of child meters within the embedded network and the level of energy supplied to those meters. There is a real danger land lease community residents will be left behind as NSW moves towards clean energy and solutions cannot be found without a clear picture of current embedded network infrastructure.

Recommendation

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