



9 August 2023

Real Estate and Housing Policy
Regulatory Policy, NSW Fair Trading
Better Regulation Division
Department of Customer Service
4 Parramatta Square
12 Darcy Street Parramatta NSW 2150

Via online portal: <https://www.haveyoursay.nsw.gov.au/improving-nsw-rental-laws>

Dear Real Estate and Housing Policy team

NSW Government Improving NSW rental laws consultation paper

Thank you for the opportunity to comment on this consultation paper.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by our investigations into these complaints, and through our community outreach and stakeholder engagement activities.

We have only responded to those questions in the consultation paper that align with issues customers raise with EWON, or with our organisation's operations as they relate to consultation paper.

If you would like to discuss this matter further, please contact Dr Rory Campbell, Manager Policy & Systemic Issues, on (02) 8218 5266.

Yours sincerely

A handwritten signature in black ink that reads "Helen Ford".

Helen Ford
Deputy Ombudsman
Energy & Water Ombudsman NSW

NSW Government Improving NSW rental laws consultation paper

EWON welcomed the Committee on Law and Safety's recommendation that the NSW Government ensure there are appropriate requirements to disclose embedded network services to a potential owner or tenant before they buy or lease a property¹. It is pleasing to see this recommendation progressing for tenants, and we look forward to seeing other key recommendations from the inquiry progress.

9.1.2 Telling renters about the use of embedded networks

Question 31. Do you support new laws to require landlords or their agents to tell rental applicants if a rental property uses any embedded network? Why/why not?

EWON strongly supports a requirement for landlords and their agents to tell rental applicants if they will be residing in an embedded network.

EWON's engagement with customers indicates there is not enough information available to home buyers and prospective tenants about embedded networks. Customers often complain to EWON that they had not been aware that embedded networks existed until they found their new home was part of one. They also tell EWON that they were not given adequate information from their real estate agent about opening energy, hot water or air conditioning accounts with the embedded network provider.

The proposed improvements to embedded network disclosure for rental applicants will help to address gaps in the existing protections for tenants.

Condition 2 of the *Australian Energy Regulator (AER) Retailer Exempt Selling Guideline* requires detailed information about the embedded network be provided to customers at the "start of their tenancy/residency/agreement"². Condition 4.8 of the *AER Electricity Network Service Provider – Registration Exemption Guideline* includes similar provisions³. However, this will usually occur when a tenancy is already in place rather than the customer having the opportunity to consider this information in making a decision. These requirements may also not technically apply when the embedded network provider is an authorised retailer rather than an exempt entity, or for services that are not billed in the underlying energy.

EWON welcomed March 2020 changes to rental laws requiring landlords/agents to include details of electricity or gas supplied through an embedded network in residential tenancy agreements. Unfortunately, many tenants are not aware of what this means or that they may require multiple accounts, particularly if there is a separately billed service such as air conditioning. Further, this inclusion does not extend to the selling of centralised hot water within embedded networks and how residents are charged for hot water. [Case Study 1](#) shows the customer impact of this gap.

Question 32. When should a rental applicant be told that a property uses an embedded network?

Rental applicants should be told that a property uses an embedded network prior to leases being entered into. This should occur at least at the point of inspection or application, with consideration

¹ Committee on Law and Safety – Embedded Networks in New South Wales – Report 3/57, November 2022, p34

² AER Exempt Selling Guideline, March 2022, pp36-37

³ AER Electricity Network Service Provider – Registration Exemption Guideline, March 2018, p71



given to circumstances where, due to the competitive rental market, an applicant may make an application without performing an in-person inspection.

Question 33. What information should a renter be told about a rental property using an embedded network? Please explain.

Renters should be provided with at least the following information prior to leases being entered into⁴:

- embedded network provider name(s) and contact details
- simple definition and explanation of an embedded network, including that consumer protections are reduced
- details of all services, not just electricity and gas, including whether they will be separately billed and/or require multiple accounts – this requirement should be future-proofed to ensure it covers any new service types that emerge
- tariffs, fees and charges and when/how these may be subject to change, with details of how the customer will be charged eg whether hot water will be billed in cents per litre or the underlying energy
- the availability of rebates, concessions and relief schemes
- forms of assistance available if the customer is experiencing payment difficulties, including the availability of the embedded network provider's hardship policy
- option to elect to purchase energy from a retailer of their choice including metering requirements, and advice that this may be subject to landlord/agent approval.

This information will help rental applicants understand what it means to live in an embedded network and make an informed decision before entering into a tenancy.

At the point of entering into a lease, renters should be provided with all the information detailed in Condition 2 of the *AER Retailer Exempt Selling Guideline*⁵ for all embedded network services, not just electricity and gas.

Information should be provided in plain English and consideration should be given to accessibility. For example, stakeholders such as the Ethnic Communities' Council of NSW (ECCNSW) should be consulted about the best approach to provide information to Culturally and Linguistically Diverse (CALD) individuals.

EWON can provide valuable input into the development of any templates, written materials or guidance for both renters and landlords/agents. EWON recently drew on our experience with embedded network issues to work with the AER to improve customer awareness that embedded network residents can come to EWON to resolve disputes⁶. There is also the option to use or refer to existing embedded networks information materials already available from EWON, the Tenants' Union NSW and/or the AER.

⁴ Our views on what information should be provided may be impacted by future developments in the embedded network space in the wake of the Committee on Law and Safety's inquiry, such as any recommendations that come out of the Independent Pricing and Regulatory Tribunal (IPART) investigation into the future of embedded networks in NSW. See the IPART future of embedded networks in NSW webpage, https://www.ipart.nsw.gov.au/documents/terms-reference/final-terms-reference-future-embedded-networks-nsw-5-june-2023?timeline_id=16155

⁵ AER Exempt Selling Guideline, March 2022, pp36-37

⁶ Embedded Networks awareness campaign webpage, <https://www.ewon.com.au/page/customer-resources/living-in-an-embedded-network/ewon-embedded-networks-campaign>

Case Study 1

Tenant was not advised of separate hot water and air conditioning services when he moved into an embedded network.

A customer moved into a rental property in April 2021. His tenancy agreement indicated that the electricity was supplied through an embedded network, so he contacted the provider and established an account. All the information he received from the provider related to electricity.

In March 2022, the embedded network provider made him aware that he needed to open a separate hot water account. He established a hot water account and the provider sent him hot water bills for the period April 2021 to March 2022, which were billed in cents per litre. He was unhappy that he did not know he needed to open multiple accounts when he moved in. He acknowledged it was reasonable to pay new monthly bills issued from March 2022 onwards but disputed the bills for the period April 2021 to March 2022. EWON provided him with detailed information about embedded networks, including the gaps in protections for customers with centralised hot water billed in cents per litre. EWON referred the complaint to a specialist resolution team at the embedded network provider to contact the customer, telling the customer he could return to EWON if the complaint was not resolved.

The customer contacted EWON in August 2022 and advised that the embedded network provider resolved the complaint initially by providing him until December 2022 to pay an adjusted amount of \$350 for the period April 2021 to March 2022. He had paid all new hot water charges in full since March 2022. However, he started receiving disconnection warnings and late fees were applied to the account. He also received a bill with daily supply charges for air conditioning when he had not agreed to be billed for air conditioning. There was no usage, which confirmed his advice that he did not use the air conditioning. He had assumed that if he did use the air conditioning, it would be billed on his electricity account. He was frustrated about being billed for another separate service.

The embedded network provider waived the late fees and ensured there would be a hold on recovery action on the amount of \$350 until December 2022. It also removed the air conditioning charges, acknowledging that the customer did not agree to an air conditioning account and that there was no usage. The customer was satisfied with the outcome.