QCOSS

Queensland Council of Social Service

Submission to AEMC review of regulatory arrangements for embedded networks

15 May 2017

About QCOSS

The Queensland Council of Social Service (QCOSS) is the state-wide peak body representing the interests of individuals experiencing or at risk of experiencing poverty and disadvantage, and organisations working in the social and community service sector.

For more than 50 years, QCOSS has been a leading force for social change to build social and economic wellbeing for all. With members across the state, QCOSS supports a strong community service sector.

QCOSS, together with our members continues to play a crucial lobbying and advocacy role in a broad number of areas including:

- place-based activities
- citizen-let policy development
- cost-of-living advocacy
- sector capacity and capability building.

QCOSS is part of the national network of Councils of Social Service lending support and gaining essential insight to national and other state issues.

QCOSS is supported by the vice-regal patronage of His Excellency the Honourable Paul de Jersey AC**,** Governor of Queensland**.**

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This research was part-funded by Energy Consumers Australia (www.energyconsumersaustralia.com.au) as part of its grants process for consumer advocacy projects and research projects for the benefit of consumers of electricity and natural gas. The views expressed in this document do not necessarily reflect the views of Energy Consumers Australia.

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Introduction

QCOSS thanks the Australian Energy Market Commission (AEMC) for the opportunity to make this submission to the review of regulatory arrangements for embedded networks under the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR).

This submission has been prepared based on the preliminary findings from QCOSS' Energy Consumer Australia (ECA) funded research into the experiences of renters in the Queensland energy market. While embedded networks were not the focus of this research project, renters are overrepresented in units or apartment complexes where these arrangements are most commonly found and we found that many renters in Queensland receive energy via these exempt supply arrangements.

We also have an interest in the outcomes for customers of embedded networks as these forms of energy supply currently occur in many housing types where low-income consumers are overrepresented – which includes units and apartments (including social housing units managed by community housing providers), as well as marginal housing tenures such as caravan parks, boarding houses and manufactured home parks.

QCOSS did not have the opportunity to explore all the consumer issues associated with embedded networks comprehensively within the scope of our research project on renter issues. As such, this submission is does not respond to all the issues that are relevant to the AEMC's consultation and does not represent a comprehensive summary of all the relevant issues associated with embedded networks in Queensland. We consider there is more investigation and consultation required to further explore many of the issues touched on in this submission.

The key issues we have identified for consumers of embedded networks in Queensland include:

- high risk of non-compliance with the AER Guidelines by the on-supplier or third party agent
- limited regulatory monitoring and enforcement of customer regulatory requirements (for example in billing, access to payment plans or hardship requirements, or to concessions)
- lack of access to effective and free dispute resolution for customers of embedded networks
- lack of practical access to alternative suppliers or market products, especially for renters
- lack of access to informed choice as residents do not receive any information about these types of arrangements when comparing properties or when entering into a lease
- complexity and confusion emerging from the presence of multiple agencies with regulatory responsibility and additional legislation that applies to on-supply beyond the core framework of protections established under the National Energy Retail Law.

Recommendations to address these and other regulatory issues are made throughout this submission.

Available data on embedded networks in Queensland

There are currently 1,884 registered retail exemptions in Queensland.[1] This is more than all other jurisdictions that operate under the AER exemptions framework combined (1,435 exemptions across other jurisdictions combined), and more than three times the exemptions in NSW (597) and South Australia (546) who have the next highest numbers of registrations. Queensland also has the highest number of registered network exemptions (1,811). The next highest is Victoria with 732. We note there are a higher number of retail exemptions compared to network exemptions across all jurisdictions – significantly so in some states such as Tasmania which has 139 registered retail exemptions and only 5 registered network exemptions.

It is unclear why the number of registered exemptions in Queensland is much higher. Our view is that state-based legislation (as described later in this submission) created more favourable conditions for embedded network arrangements in Queensland. Another factor may be due to buildings in Queensland being fitted that way earlier than in the other states.

There is no information available on the number of customers supplied via embedded network or on-supply arrangements. The Queensland Department of Energy and Water Supply (DEWS) estimates there are approximately 275,000 residential on-supply account customers in Queensland and approximately 110,000 on-supply households (40 per cent) living in units and apartments (DEWS, 2015). It is expected that this growth will continue alongside the recent spate of inner city apartment development, as well as the emergence of new technologies and business models such as power purchase agreements (PPAs), micro-grids and the retrofitting of embedded networks in older buildings. While the number of exemptions in Queensland is growing, the AER has indicated that this growth is consistent with growth in other states.[2]

A better understanding of the number and spread of customers in embedded networks is needed to ensure consumer policy and protections remain responsive to trends in this market. This could be achieved if the AER collected and published information on the number of dwellings or customers supplied by each registered on-seller and the category of each exemption at different locations /postcodes.

Embedded networks in social housing

The AER's public register shows a small number of community sector registrations in both the R2 and R4 categories. QCOSS has also identified that there are several Queensland community housing providers with embedded networks in their buildings, and a number who are actively investigating opportunities to retrofit their buildings; however not all these community housing providers were aware of the AER's Exempt Selling Framework. Some had been approached by billing or metering agencies operating in the exempt selling space indicating there is marketing activity occurring by these companies.

In many cases, they are interested in this model of supply in order to assist their low-income and vulnerable tenants who they have identified as struggling to afford the energy bills they receive from retailers. Low-income social housing tenants could undoubtedly benefit from the lower prices on offer through exempt networks, and arguably, the community housing sector

[1] Numbers current at 15/05/2017: http://www.aer.gov.au/retail-markets/retail-exemptions/public-register-of-retail-exemptions and https://www.aer.gov.au/networks-pipelines/network-exemptions/public-register-of-network-exemptions

[2] Interview with AER, 2016

would be well placed (with appropriate information) to manage the consumer risks of exempt selling to their tenants. However, it is quite possible that not all community housing providers who are on-supplying are aware of their obligations to register as an exempt seller, and of their obligations to their customers.

We note that one of the partners in our renter research project, QShelter, have received an ECA grant to assess energy management options for two community housing providers which will include consideration of embedded network issues.[3]

Community housing providers and their tenants would benefit from a targeted information campaign to increase awareness of the regulatory framework. QCOSS suggests the community housing sector should be a key stakeholder in the AEMC's consultation on embedded networks. Targeted information about the various models of on-supply and the implications for providers and social housing tenants, could assist community housing providers who are considering the option with their decision making and to later manage on-supply options in a way that is beneficial for their tenants.

Case study: XYZ Community Housing Provider

XYZ is a 14-story unit block with 146 studio and one bedroom units providing permanent affordable and supportive housing. It is home to a mix of tenants including some who have experienced chronic homelessness. It is a unique social housing development that has many services on site for the tenants, including well-designed common spaces that encourage socialisation and a 24-hour concierge for welcoming but controlled entry into the building.

XYZ is currently investigating the costs of retrofitting an embedded network so they can purchase energy at bulk prices and on-sell to tenants at the lowest possible price. While it would have been more economical to install the metering for this arrangement at the time the building was built, they had been unable to obtain permission at the time from the Department of Housing who owns the building, due to the organization initially having only a 5-year lease of the property and concern about future legislative changes making management of such a system difficult. The organization now has a 15-year lease on the building and is keen to understand the cost/benefits of converting to an embedded network /retailing arrangement.

Consumer protections

In the past in Queensland there was only very limited protection for on-supply customers as the consumer protections in the former Queensland Electricity Code did not apply to these customers, nor was there any sort of exemption regime or monitoring of on-suppliers. The adoption of the National Energy Customer Framework (NECF) in Queensland, including the AER Exemption Guidelines, therefore provided a significantly improved framework for on-supply customers in Queensland.

However, the pricing protections applying to customers of exempt sellers is an area of concern for consumer advocates that has not been resolved by the revised AER guideline. While the AER's pricing condition sets a cap on the prices using the benchmark that they should pay no more than they would be if they were a customer on a standing offer contract with the local area retailer, where retail competition is strong, this cap is on the high side of the pricing spectrum. This is not a current concern in Queensland as tenancy and other

[3] http://energyconsumersaustralia.worldsecuresystems.com/grant-archive/876-evaluating-energy-management-options-community-housing

legislation results in more stringent pricing conditions for on-suppliers. This will be discussed further below.

Concern with pricing is linked to the difficulty for customers of exempt sellers to access an alternative form of supply or supplier (and therefore a better price) in the same way that direct retail customers can access the competitive market. While in some states it is possible for customers to transfer to an alternative retailer, customer advocates have observed there are practical barriers to doing so. In Queensland, it is currently not possible to choose an alternative retailer when in an on-supply arrangement, however the Queensland Government has agreed to enable retail competition to be expanded to customers in embedded networks and anticipates this will be available from 1 December 2017. It will also be a requirement under Retailer of Choice reforms to inform tenants of their right to choose a retailer from 1 December 2017 and also under their Network and Retail Exemption conditions.

Additional legislative conditions in Queensland

A further complexity in on-supply arrangements is that in Queensland there is tenancy and body corporate legislation that applies constraints on prices charged to tenants and occupiers of units, over and above the AER pricing conditions. However, it is noted that the additional requirements only apply to models where the on-supplier is passing on energy charges directly or through a third-party billing agent under a retail exemption, and not where there is a retailer operating within the exempt network. The precise legislation and the details depend on the type of rental arrangement, as is shown in the Table below:

Table: Legislation applying to on supply chargers for renters in Queensland

Type of Renter	AER	RTRAA	Other State Legislation
Renter of Unit/Apartment with separate metering	R2, D2	s 165(3), 171 (3)	Body Corporate Act S 96 (1) , s. 158 The Standard Regulation Module s. 169
Renter in Boarding House/Student Accommodation	R2, D2	s. 170	
Retirement village residents with the right to occupy	R3		Retirement Villages Act 1999. s 103, S106 Body Corporate Act where there is strata title.
Caravan parks residents (owners or renters of the caravan)	R4	s. 167	
Manufactured home owners paying site rents	R4		Ss 99 and 99A of the Manufactured Homes Act
Renters of manufactured homes	R4	s. 167	
General Tenancy – single dwelling/unit block where premise is not metered	D6	s 165(3)	

AER exemption classes and (pricing) Condition 7 of the AER Exemption Guideline applies to each of the situations included in the table above. Condition 7 requires that:

> *an exempt person must not charge the exempt customer tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new*

connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises of the exempt customer. (AER 2016)

The condition also sets out requirements for notifying customers of changes in tariff and limiting the additional fees and charges to those allowable under a standard retail contract.

However, in fact in Queensland the prices that can be charged to on-supply customers are more limited due to a range of state legislation including the *RTRAA*, the *Queensland Manufactured Homes Act 2003* (the *Manufactured Homes Act*), the *Body Corporate and Community Management Act 1997* (the *Body Corporate Act*) and the *Retirement Villages Act 1999*. In general, while the AER pricing condition allows an on-supplier to profit from the sale of energy so long as the pricing condition is met, Queensland legislation requires that the costs passed on are no more than what it cost the on-supplier.

Residential Tenancy and Rooming Accommodation Act

For renters in the main, this stems from S 165 (3) of the *RTRAA* which states:

The tenant may not be required to pay an amount for the outgoings that is more than—

(b) if the premises are individually metered and—
(i) a way for working out the amount payable by the tenant is prescribed under a regulation—the amount worked out in the way prescribed; or
(ii) a way is not prescribed—the amount charged by the relevant supply authority for the quantity of the thing, or the service or facility, supplied to, or used at, the premises. (RTRA Act)

There are some small variations in the requirements and provisions relating to specific rental situations, for example, tenants of moveable dwellings, and those in rooming accommodation, as well as specific legislation applying to owners of manufactured homes and retirement village dwellings; nonetheless the overall effect is to limit the prices charged to those incurred by the on-supplier. Section 167 of the RTRAA applies to renters of moveable dwellings and s170 to rooming accommodation; both sections containing the same provision around charges as at s 165 (3) above.

Body Corporate Act

Additionally, due to provisions in the Body Corporate Act preventing a body corporate from profiting from the on-sale of energy, the same general limitation applies to on-sellers who supply owner-occupiers not covered by the RTRAA. Section 96 of the Body Corporate Act prevents the body corporate from carrying on a business, while under s 158 it allows a body corporate to supply or engage another person to supply services for the benefit of owners and occupiers. The Standard Regulation Module allows the body corporate to recover the costs of this service, including installation, maintenance and other operating costs, but only as necessary for reimbursement the body corporate (s.169 (2)).

The effect of the provisions in the RTRAA and the Body Corporate Act is essentially the same, and renters in unit blocks would be covered by both Acts if the on-supplier is the Body Corporate for the building they reside in. A Body Corporate on-selling directly or engaging a third-party metering and billing company to do so on its behalf, would be in breach of both acts if it were charging incorrectly, regardless of whether it complied with the AER guidelines.

Community housing providers

It does not appear to us that the provisions under the Body Corporate Act would apply if the embedded network on-supplier was a community housing provider (or third party acting on

their behalf), rather than a Body Corporate – although it is likely the RTRA Act provisions would apply as the community housing provider is also the tenant's landlord.

Manufactured home parks

Another difference that may be problematic for on-suppliers to manage is in manufactured home parks where the provisions of the *RTRAA* apply to *renters* of the manufactured homes while the *Manufactured Homes Act* applies to *owners* of manufactured homes. This also affects which authority is responsible for dispute resolution in relation to any problems. The difference between the two pieces of legislation is minor, however it is a source of potential confusion and difficulty where there are issues across a number of residences within the one park.

While in both circumstances the on-seller cannot charge more than the amount charged by the supplier to the premises, s. 99 and 99 A of the *Manufactured Homes Act* (which applies to dwelling owners) require that the site agreement specify that energy will be charged in this way.

Retirement Villages

There are a number of category R3 registrations in Queensland listed on the AER public register, however it is not a consumer sector with which QCOSS has had significant dealings and from which we have received complaints. Retirement villages are not strictly renters, however, like caravan park and manufactured home owners they may not have a form of title that allows them to exercise choice over their energy infrastructure. Residents' right to occupy can take the form of:

- Strata title – where the resident acquires title to the premises;
- Leasehold – where a lease (not a tenancy agreement) is granted to the resident;
- Licence – where a licence right is granted to the resident; or
- Company title – where a resident will acquire shares in a company which coupled with a lease arrangement, will give the resident the right to live in the premises.

Section 103 of the *Retirement Villages Act* covers the passing on of charges for general services for residents, and if energy is included in the description of services, then it requires that the method of working out the charges be stated in the public information document. Section 105 requires that any increase in these charges may not be above CPI. The later provision in particular may provide a further cap on the cost of energy on sold, in addition to the AER pricing conditions. Body Corporate Act provisions could also apply in situations where there is strata title.

Unmetered energy

While the sale of unmetered energy is prohibited for rooming accommodation, residents of Caravan Parks and manufactured homes (both renters and owners), it is allowed for in general tenancies under the RTRA Act. The AER advised that they created a category specifically for this circumstance in Queensland - the D6 category. Where this occurs, under s 165(2) the amount to be paid or the method of calculation must be outlined in the tenancy agreement.

It is unclear how many customers may be affected by the sale of unmetered energy as neither the AER, DEWS or RTA hold any data on this. There may still be some "six-packs" - older style units that were never separately metered - in existence, though the arrangement is also likely to apply where tenants are renting a separate part of a house or separate dwelling on a property that does not have separate metering, for example a "granny flat". As these types of arrangements often do not have a formal rental agreement or are managed directly by

landlords, the tenants may be more vulnerable and less aware of their rights, and not have access to energy concessions, rebates and hardship programs.

There is minimal likelihood that the AER would be able to monitor or enforce pricing or other conditions for this exemption category given that it is a deemed category of exempt selling. It would also be difficult to assess compliance with pricing Condition 7 as there is no available volume charge to assess whether the charge is no more than the cost of supply from a local retailer.

Given the difficulties in monitoring compliance with the requirements to set out amounts or charging mechanisms in the lease, and the potentially small number of rental situations in which this would apply, QCOSS recommends that the Queensland Government amend the RTRA Act so that charges for electricity can only be passed on where the property is separately metered in all tenancy situations.

Consumer complaints

One major consumer problem with on-supply arrangements is the limited access to appropriate dispute resolution mechanisms, which means that it is difficult not only for customers to resolve disputes, but also limits the transparency around common complaints for embedded network customers which may assist in identifying systemic issues.

This is not just a problem in Queensland, with the only NEM jurisdictions to extend the services of their Energy and Water Ombudsman services to on-supply customers being NSW and SA. The Energy and Water Ombudsman Queensland (EWOQ) is unique across the NEM as it is a statutory authority and thus does not have the scope to make changes to its own jurisdiction. In Queensland, embedded networks customers with a dispute may be referred to various parties including the Residential Tenancy Authority, Body Corporate Association, or Office of Fair Trading.

In the absence of clear channels for complaints or enquiries related to embedded networks, we are aware that individual customers have also been contacting the AER with complaints or enquiries about their situation. While this may result in further action from the AER, the AER do not offer dispute resolution services.

In 2015 the current Queensland Government released a Regulatory Impact Statement (RIS) for consultation which considered extending the jurisdiction of the EWOQ to on-supply customers. Stakeholders including QCOSS and EWOQ supported the proposal. The Queensland Government has yet to announce a decision on the matter.

There is certainly evidence that consumers do encounter issues that require assistance to resolve though the number of complaints received remains relatively low (see Table below). It was interesting that in obtaining information from EWOQ regarding the number of customer enquiries referred to DEWS, the number of calls to EWOQ was nearly double the number of complaints to DEWS.

Table: Complaints by customers about On-Supply in Queensland 2013-2016.

Data Year	Energy On-Supply
2013-14	107*
2014-15	149
2015-16	123 (216 referrals from EWOQ)

*The RIS did not state number but states the 2014 number was up 40% from the previous year.

According to DEWS and advice obtained from the RTA and EWOQ, complaints frequently involve prices, fees and charges, and other billing problems or errors. Access by customers to concessions or other assistance with financial difficulties are further key issues.

With limited information in the public domain, there has been some effort to better understand the consumer detriment through a number of research projects by consumer groups. For example, in 2012 the Consumer Utilities Advocacy Centre conducted a mail survey of 77 customers across four Melbourne Apartment Buildings[4], while more recently the South Australian Council of Social Services (SACOSS) focused on exempt selling to caravan park residents.

The latter research is particularly relevant as it was conducted within a jurisdiction where the AER guideline for exempt selling applies, though prior to the most recent guideline amendments. SACOSS interviewed 20 residents in Caravan Parks about their experiences of on-supply. They concluded that the conduct of exempt sellers in the course of on-supplying customers may in some instances be quite different to the practice required under the exempt selling guideline. They also found that as consumers' awareness of their rights and the obligations on suppliers is low, there is significant scope for improving information to these customers.

Complexity and non-compliance

In the RIS, DEWS suggested that consumer problems with embedded networks are mostly confined to caravan and manufactured homes park residences because park managers have difficulty understanding and complying with the exemption requirements and do not tend to use billing agents in the same way that Body Corporate associations do. However, our investigations and consultation with stakeholders identified compliance problems are regularly encountered with third party billing agents as well.

A major consumer concern raised by SACOSS in its 2015 report is that the AER may not have the capacity to monitor the compliance of providers with the requirements of the guidelines, much less take enforcement action in the event of non-compliance. This is particularly the case with deemed exemptions as the AER has no line of sight to these on-suppliers. SACOSS also raise the possibility that many providers who should have registered an exemption may not have, and that this non-compliance may be difficult to identify. It is noted that the AER recently issued a $100,000 fine to Stockwell for failing to register exemptions in South Australia and Queensland, however there may be on-sellers still unaware of their obligations to acquire an exemption.

While the application of the additional Queensland legislation relating to on-supply does result in some additional price protection for consumers, it also results in some additional complexity for those managing the arrangements.

Apart from situations involving the sale of unmetered energy, there is no requirement in the *RTRA Act* for tenants to be made aware of the charging arrangements (or the on-supply situation) either prior to signing the lease or in the lease agreement.

There may also be some practical difficulties with applying the more stringent pricing conditions required in the *RTRA Act* and *Body Corporate Acts* where the on-supplier is being charged variable rates for energy or where the supply to the parent meter is being charged under a demand tariff. Demand charges are standard for business customers consuming

[4] It is noted that Victoria currently has its own exemption scheme for regulating on-supply.

over 100MWh per year, however as the child meters are accumulation meters (or are being read as accumulation meters) it is difficult to work out the appropriate charges. Proportioning the demand charges to each dwelling according to their consumption is likely to result in cross-subsidies between consumers in the embedded network.

By contrast, if the AER pricing condition applied, it would be easier for an on-supplier to charge an appropriate rate as that rate could be higher than what the on-supplier actually paid for the energy. There would be issues for a supplier if recovery of their costs resulted in charges for on-supply customers that are higher than the local retailer, for example, if there was unusually high demand during the period.

To assist on-suppliers, particularly park managers who tend to manage on-supply billing themselves, DEWS previously provided a 'ready reckoner' tool. This tool assisted on-sellers to establish the maximum amount that an on-supplier may charge an on-supply customer for electricity where no other legislative instrument set out a lesser maximum. The Ready Reckoner was also consistent with the pricing protection provisions contained in the Electricity Act, which was removed with the commencement of the National Energy Customer Framework in Queensland on 1 July 2015. Therefore, the Electricity Act no longer regulated the price on-suppliers charge their customers and the Ready Reckoner was subsequently removed. In our view, this tool risked putting the on-seller in breach of other state legislation including the RTRA Act and Body Corporate Act. In any case, it is no longer available on the DEWS website, leaving on-suppliers to work out the charges for themselves.

Although the tenancy and body corporate based state legislative requirements do result in better pricing protections for consumers in addition to the AER pricing condition, it creates complexity and does not enable the AER framework to provide the comprehensive coverage of exempt selling as intended. The AEMC may opt to adopt a new framework, however without addressing these other legislative requirements, confusion and complexity for on-sellers and their customers will remain.

Opportunities to improve information

There is limited information on the DEWS, RTA and AER websites. The DEWS website refers to the AER exemption guidelines, and now mentions the other applicable state legislation. The AER website does not refer to these differences, so it would be conceivable that Queensland on-suppliers accessing their information from the AER might remain unaware of their pricing obligations in the Queensland context. Consistency across the various websites would be of assistance to consumers and on-suppliers alike.

Disclosure of supply arrangements such as on-selling is critical for renters to be informed and make decisions about the properties they rent. Over time, it would enhance understanding of these arrangements and make the connection between dwelling choice and energy costs and service amenity more clear.

Disclosure of on-supply is only required due to the specific risks associated with this model of supply, and ultimately, action to improve the current framework is the more effective response. Central to this is extending the jurisdiction of the Energy and Water Ombudsman Queensland to cover on-supply customers. We understand that it is a broader issue of concern for ombudsman schemes who have been discussing funding options through their national network.

Beyond disclosure there are some additional actions at the state level that could be effective to improve information and outcomes for tenants. For example, the RTRA Act could remove the ability to charge for energy where a property is unmetered in general tenancies, to provide a consistent approach across all jurisdictions. Further, the legislation referring to service charges could be reviewed and made clearer, allowing caravan and manufactured home parks to charge for meter reading and billing, which would in turn encourage the use of

professional billing agents. Requiring these billing agents to register with the AER is an option that could be also explored, with minimum standards attached, requiring an understanding of legislative requirements and resulting in greater visibility of activities within embedded networks. Although this may result in additional charges for those consumers, it would be consistent with the charges currently being levied in unit blocks and customers of direct supply. It may also result in better outcomes for consumers by reducing the potential for billing problems (including overcharging) resulting in disputes, as well as increase access for consumers to concessions.

In terms of choosing a provider, we note that customers of embedded networks are not able to make a direct comparison of the offer using a service such as Energy Made Easy. It is not clear how a customer would feasibly be able to compare an embedded network price offering with a standard retailer without some kind of comparison tool that allowed them to enter their consumption and the relevant offer information.

Emergence of different business models

The diversification of available models and the new market for retrofitting is creating some complexity and inconsistency in the arrangements for consumers. For example, there are now retailers that specialise in operating in embedded networks, contracting with the body corporate or developer for the supply and retrofit of the child/parent meters, and then separately with residents as the retailer of their energy. In this model, there is no need for a retail exemption as the retailer operates under their retail licence to supply, however an exemption would be required at the network end.

One benefit of this model, and one which we have observed that these retailers promote to potential customers, is that, as licenced retailers, customers have the protections of the NECF and access to the Energy and Water Ombudsman Queensland (EWOQ).[5] However, embedded network retailers do not have the same pricing constraints in Queensland as body corporates or landlords who are on-supplying directly or using third party agents. In the latter case, the retail exemption condition on pricing and, perhaps more importantly, provisions in other Queensland legislation provide a restraint on the prices charged which does not apply to embedded network retailers who have a direct contract. They are operating with no price constraints while locking customers in to an arrangement which may involve contracts of three years or more and in circumstances where, at present, it may be difficult to access an alternative market offer.

There is no evidence currently that the prices on offer are unreasonable. In fact, the opposite is true as these models are being sold due to the strong discounts on current market prices that can be provided. However, there are some anomalies from the regular retail supply model that may give rise to concern. For example, regulatory requirements for price fact sheets are not followed by these retailers, as prices are worked out on an individual basis. This means information may not be as transparent for customers, and that it is more difficult to monitor price movements in this market. If price discounts become less generous in subsequent contracts with consumers, this may go unnoticed as they are neither under the exempt selling model nor fully under the retail law requirements. It would be interesting to observe whether retailers are reporting to the AER on disconnection and hardship programs for these customers, and if so, if they are able to be separately identified as customers within an exempt network.

[5] It is understood that access to the ombudsman scheme does not automatically flow from this model in all jurisdictions, e.g. Victoria. However we have confirmed access to the scheme for customers of the embedded network/ retailer model in Queensland.

As retrofitting embedded networks is becoming more common, the AER has created guidelines requiring consultation and agreement with residents of the building in question. Residents would include tenants, rather than owners. However, while technically tenants may have a say, it is likely that they practically do not. QCOSS is aware of one example of two students renting a unit who received a notice that an embedded network would be established in their building. They were aware that a meeting also occurred with residents of the building but as they were not invited, they assumed it was only for owners. The building was subsequently fitted with an embedded network and they now receive their electricity bill from an embedded network retailer.

One embedded network retailer was interviewed for this project. When asked about what they did when a tenant did not agree to the retrofit or signing up a contract with them for energy, they advised that there were few objections because of the favourable rates, however if there was reluctance they could exclude the tenant from the arrangement until such time as their lease was up for negotiation. At this time, the arrangement could be made a condition of the new lease, as tenancy legislation allows a landlord to require the tenant to contract with a supplier of its choice for energy services. Given the unequal bargaining power that many renters experience, it is concerning that renters in this situation could be forced to participate in offering consent for a retrofit or signing up to a retail contract that they might otherwise not have chosen, in order to maintain their tenancy.

One observation is that there is not nearly enough publicly available and independent information about these models of on-supply, and the pros and cons for both consumers and building owners, managers or body corporate associations who are being actively courted by those engaged in the business. Knowledge about the precise contract arrangements are held by the suppliers and not subject to any monitoring by the AER or another entity. This is concerning as the market continues to grow in size and complexity.

Further, as noted above, there is a need for independent information on the various business models and contractual arrangements occurring in the sector. This, combined with information on compliance with exemption frameworks and consumer outcomes, would assist in demystifying a complex sector and either give confidence in the existing framework or identify areas of weakness to be addressed. One approach would be for the AER to publish an annual report detailing trends in registration of exemptions, emerging business models, an analysis and overview of prices, AER compliance activities and analysis of the available complaints data.

Case Study

HMs "Affordable" new home

HM is a 39 year old woman on a Centrelink income who lives with her son in Brisbane. In late 2014, she successfully applied for tenancy of a two-bedroom unit in a complex that was part of the National Rental Affordability Scheme (NRAS). The lease application documents included an Electricity / Utilities Application Form. HM said she was unaware of the full implications of signing the utilities document but just signed "whatever papers they put in front" of her because she wanted the NRAS rental which was new and affordable.

In mid-January 2015, HM received a letter from a third-party billing agency [ABC] advising her that the Body Corporate had set-up an on-supply arrangement with them for her utilities. They outlined their role in the billing process and supplied a brochure, however no schedule of fees was attached. They advised HM that her electricity bills would be sent monthly from the Body Corporate. The first bill arrived as a "Tax Invoice" from [ABC]. It included the Body Corporate details in the header, named [ABC] as the contact for billing enquiries, and showed StrataPay as the payee on the payment slip. HM was confused, and contacted the Property Manager who explained that the Body Corporate pays the electricity bill and passes on the charges to tenants. When HM asked what electricity prices she could expect, she was directed to call [ABC].

HM then called ABC and asked them how she had become their customer. They explained that she had completed their application form when signing the lease and on request sent her a copy of the signed application form that contained contract terms and conditions. This form constitutes their contract. It referred to the types of fees and charges but does not list the tariff or price per kWh she would be charged. Instead, applicants are directed to the website where there were also no listed prices. The form also directed HM to visit the website and download and print out an application form if eligible for the Queensland Government Electricity Rebate.

The first bill received by HM was only for a 13-day period so HM expected it to be low. She had no idea that it would also include the following charges:

Security Deposit	$150.00
Service fee	$ 4.63
Application fee	$ 25.00

HM paid the full amount of $186.60 into the Body Corporate's NRAS Trust Account because the ABC welcome letter specifically states that "[t]he accounts you receive will be from the Body Corporate". HM realised her error when she received the next monthly bill but was able to resolve the situation over the phone.

In addition to the on-supply arrangement for her electricity use, HM discovered she would receive a bill for both bulk hot water and "unmetered gas" for her cooktop from Origin Energy. She also believes she was supplied with air-conditioning through a bulk system in the building, however there is no evidence on any of her accounts if and how she was paying for such a system so this cannot be verified.

HM said "It's confusing alright. I was paying my rent to the NRAS Trust account, my water usage to the Property Manager, my electricity to [ABC], my gas cooking to Origin, and also Origin for my hot water."

HM believes that her overall costs as a result of different energy related services she received were higher than if she had 'regular' arrangements. After 12 months living in the property her rent increased and she decided she should move: "I couldn't afford to stay there anymore with all those extra services to pay for."

HM moved out of the NRAS property and into a private rental property where she has electricity and gas connected. She describes the house as an old original weatherboard house. The electric hot water is connected to a controlled load tariff (T33) while reticulated natural gas is used for cooking only. HM believes that her energy costs have been reduced as a result of the move and that this is due to having fewer services to pay for.

It is interesting to examine whether HM's view that she had additional costs as a result of the supply arrangements at the NRAS property is real or perceived. To understand this, we examined and compared HM's bills in both rental properties. Noting that HM has only been in the new property for a short time and that the length of the billing information varied, we worked out an average daily cost for all the services[6] and based the comparison on 100 days' usage (just slightly longer than a typical quarter).

Electricity

[6] using the previous 6 months at the NRAS property and all the available data at the rental property. This ranged from 58 – 87 days.

Over the 18 months of HM's tenancy, the wholesale electricity price passed on by the Body Corporate varied from between 14.19c/kWh to 17.87c/kWh. In fact, this was substantially less than the regulated price at the time of 25.378c/kWh (2014/15) and 22.238c/kWh (2015/16).

The SAS daily service fee ranged from 35.62c /day to 38.86c /day, making it also considerably less than the regulated Daily Supply Charge at the time which was 83.414c/day in 2014/15 and 106.728c/day from July 1 2015, and also lower than the service charges available since the deregulation of electricity prices in SEQ in July.

What is interesting however when comparing costs over the period is that the consumption at the NRAS property was more than 3 times higher than her electricity usage in the present rental property, even though the house is an older style and the NRAS property a new apartment. This may be accounted for by the fact that HM had nowhere to hang clothes at the NRAS property and used a clothes dryer, as well as the fact that the NRAS property had a reverse cycle air-conditioner. Although the consumption from the NRAS property was taken over a period across autumn and winter, and not summer, some heating use from this system could explain the higher consumption. HM does not have air-conditioning at the new property and will rely on fans over the summer.

It is noted that HM is eligible for a concession for the electricity supply in both arrangements which has reduced the costs. At the private rental property, HM's electricity usage costs were also reduced by 8% because she accessed a market offer with a pay on time discount. However, the unmetered gas supply and the bulk hot water supply are not covered by the Queensland Government Reticulated Natural Gas Rebate and HM was ineligible for the rebate.

Bulk Hot Water Charges

HM's Bulk Hot Water was billed using a declining block tariff system ranging from 3 cents per litre down to 1.5 cents per litre. The average daily cost of HM's bulk hot water usage was $1.18 per day (excluding GST). Including the daily supply charge which averaged 30c/day (excl GST) HM's average daily bulk hot water cost was $1.48 (excl GST). No concession was available to offset the costs of her bulk hot water.

It is impossible to compare the unit costs HM was paying for hot water with any other alternative supply arrangement as bulk hot water is charged in cents per litre, not per Megajoule or kWh. It is also not possible to compare consumption levels from one premise to the other for the same reason. However, when simply comparing the price she has paid for usage (and not the supply charge) we can see the over all cost of hot water for HM has decreased. One contributing factor is that HM's current electric hot water system is connected to a controlled load tariff.

Unmetered Gas

Cooking gas at the NRAS property was unmetered and charged at 46c a day (excl GST) regardless of actual usage. The charge was included in a bill with the bulk hot water charges from Origin. A supply charge applies across both services. When compared with the usage charges for the gas at her new premises, the unmetered gas at the NRAS property was considerably more expensive. Even when factoring in the lower service charge for the gas/bulk hot water compared to the high natural gas service charge, the overall cost of gas for cooking is lower at the new property.

HM was not eligible to receive the QLD Government Reticulated Natural Gas rebate for the unmetered gas (or the gas bulk hot water) but has been able to reduce her costs for the reticulated gas by accessing this concession at the new property.

In summary

In the NRAS property total costs for gas cooking, hot water and other electricity usage was $2.76 per day (incl. GST), which includes taking into account the concession applied to the on-sold electricity. In her new rental HM's combined average daily energy costs are now $1.94 (incl.GST) after the QLD Government Electricity & Reticulated Natural Gas Rebates are applied.

Her daily energy costs are therefore now $0.82c per day lower than when she lived in the NRAS property.

This is not, as HM believes, because she had more individual services at the NRAS property. In fact the combined services charges of the on-supplied services are considerably lower than the high service charges she is paying on the dual electricity /gas arrangement at the new property. Rather it is because of a combination of factors including the higher volume cost of the bulk hot water and unmetered gas, improved access to concessions, access to market contracts, and changed consumption patterns. All of these factors have played a role in achieving an overall better cost of living outcome for HM in the older property.

HM will undoubtedly take the lessons from this experience into her consideration of rental properties in the future now that she is aware of how important the energy costs are to the overall affordability of a property. However, in order for her to adequately compare two such properties as potential homes in the future, she will need a greater level of information not only about the supply arrangements at the property, but also the costs of that supply, whether or not concessions will be available and factors impacting on consumption.