



# IPART Embedded Networks Draft Report December 2023

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## **UDIA NSW**

Level 5, 56 Clarence Street  
Sydney NSW 2000

PO Box Q402  
QVB Post Office NSW 1230

P +61 2 9262 1214  
F +61 2 9262 1218  
E [udia@udiansw.com.au](mailto:udia@udiansw.com.au)

[www.udiansw.com.au](http://www.udiansw.com.au)  
ABN: 43 001 172 363

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For further information about the submission please contact:

**Michael Murrell, Director Policy and Research**



# About UDIA NSW

Established in 1963, the Urban Development Institute of Australia NSW (UDIA) is the peak industry body representing the leading participants in urban development in NSW. Our more than 450 member companies span all facets of the industry including developers, consultants, local government and state agencies.

We have a strong commitment to good growth in the regions, with active Chapters in the Hunter, Central Coast, and Illawarra Shoalhaven. Our advocacy is based on creating liveable, affordable, and connected smart cities.

## Executive Summary

UDIA welcome the opportunity to comment on IPART's Draft Report: Embedded Networks (the Draft Report). The development industry acknowledges the important role that IPART play in establishing an appropriate regulatory framework for competition and price setting and recognise the extensive work that has gone into the Draft Report.

Embedded networks, where implemented appropriately and transparently, can generate substantial benefits for end users and UDIA remain supportive of their continued operation in NSW. However, we are cognisant that the nature and structure of embedded networks can lend themselves to poor outcomes for consumers where inappropriately and poorly implemented and it is appropriate for a degree of regulation to protect consumers interests.

UDIA do however raise concern the draft recommendations as currently identified in the Draft Report have the potential to add at least \$5,000 to the cost of a new apartment as embedded networks are restricted and will expose owners' corporations to additional costs in the range from \$10,000 to over \$300,000 if they need to replace networks and cover the upfront cost of the infrastructure. Adding additional costs to housing while NSW is in the midst of a housing crisis is an unacceptable outcome and all efforts must be made to ensure that the regulatory framework does not further exacerbate the housing supply and affordability crisis in NSW.

This submission has sought to respond to each of IPART's specific recommendations and make constructive recommendations where necessary.

# UDIA Response to IPART Recommendations

Draft recommendation 1. Maximum gas and electricity pricing methodology for embedded networks comprise:

- A consumption charge set equal to the median consumption charge of each active retailers' lowest consumption charge (inclusive of discounts and GST) for their generally available offers
- A fixed rate set equal to the median supply charge of each active retailers' lowest fixed charges (inclusive of discounts and GST) for their generally available offers.
- A separate price should be set for each distribution district, and for small business and residential customers separately.
- An active retailer is defined as any retailer with at least 1000 customers in NSW that has an active offer available at the time the benchmark is calculated.

UDIA supports this recommendation subject to a number of changes. Six monthly pricing reviews are considered excessive and are likely to create disproportionate regulatory costs and cause price instability for customers. Annual pricing reviews would be more appropriate.

Furthermore, pricing based on the short-term spot market movements, is likely to create disproportionate regulatory costs and cause price instability for customers. It will also require embedded network operators to adopt shorter-term hedging strategies, which are unlikely to mirror the underlying hedging strategies used by the retail offers that will form the basis of the proposed benchmark.

Benchmarking prices to the median of the lowest market offers may enable a seller to recover its efficient costs of supply in relation to the supply of energy but it prevents embedded network operators from recovering infrastructure costs, which will have the effect of discouraging sustainable energy solutions and accommodating innovation and investment in the energy sector.

UDIA also note that many service providers include introductory offers which charge a reduced price for a period to attract new customers with the aim of transitioning them to longer time higher price contracts. This lower price is not reflective of the true charge needed for the ongoing viable operation of the business and must be excluded from the median supply charge calculation. Likewise, the inclusion of discounts will also distort this methodology and should be excluded.

**Draft recommendation 2. For electricity embedded networks, an embedded network seller be permitted to apply different consumption tariffs for different time periods (i.e. time-of-use tariffs), as long as the average price does not exceed the determined consumption charge when it is weighted by the AER's Default Market Offer model annual usage profiles.**

UDIA supports this recommendation.

**Draft recommendation 3. Where customers are billed in cents/Litre, the maximum price for hot water be determined by multiplying the maximum gas consumption charge (as applicable to the customer's distribution district and whether the customer is a small business or residential customer) by the maximum common factor of 0.4MJ/L.**

UDIA contend that this approach is flawed and overly simplistic because:

- a) applying a common conversion factor assumes that all hot water systems are the same, which they are not; and
- b) it does not enable embedded network operators to recover the costs of the infrastructure installed on the sites, including hot water meters and centralised hot water plants.

**Draft recommendation 4. The pricing methodology for hot water permit embedded network sellers to charge for the consumption of hot water in either units of water (cents/Litre) or units of energy (cents/kWh or cents/MJ).**

UDIA supports this recommendation.

**Draft recommendation 5. Where customers are billed in cents/MJ or cents/kWh, that the energy price charged, multiplied by the common factor, cannot exceed the maximum price of hot water as determined by the pricing methodology specified in draft recommendation 3.**

UDIA supports this recommendation.

**Draft recommendation 6. Regulated maximum prices for chilled water be extended to all centralised air conditioning services sold by an embedded network seller.**

UDIA NSW members operate sites where charging for centralised cooling air-conditioning services is based on metered kWh thermal (not kWh electrical) and charges are a tariff in \$/kWh<sub>thermal</sub>, with no fixed rate charge applied.

The charging methodology is a calculation based on:

- Cost of electricity to run the electric chiller(s) in \$/kWh electrical
- Co-efficient of performance of the electric chiller(s)
- System losses

The proposed recommendations do not appear to address charging based on kWh thermal (not kWh electrical).

Akin to the 0.4 MJ/L factor applied for hot water, UDIA would support IPART prescribing a Co-efficient of Performance factor for the purposes of calculating a maximum price for centralised cooling air-conditioning services which are billed in \$/kWh thermal (not \$/kWh electrical).

UDIA members further operate sites where we charges for centralised heating air-conditioning services are based on metered kWh thermal (not kWh electrical) and charges a tariff in \$/kWh<sub>thermal</sub>, with no fixed rate charge applied.

The charging methodology is a calculation based on:

- Where centralised heating system is an electric heat pump system
  - o Cost of electricity to run the electric heat pump(s) in \$/kWh electrical
  - o Co-efficient of performance of the electric heat pump(s)
  - o System losses
- Where centralised heating system is a gas boiler system
  - o Cost of gas to run the gas boiler(s) in \$/MJ

- Efficiency of the gas boiler(s)
- System losses
- Energy units conversion factor from \$/MJ to \$/kWh thermal

The proposed recommendations do not appear to address charging based on kWh thermal (not kWh electrical).

Akin to the 0.4 MJ/L factor applied for hot water, Real Utilities would support IPART prescribing a Co-efficient of Performance factor for the purposes of calculating a maximum price for centralised heating air-conditioning services which are billed in \$/kWh thermal (not \$/kWh electrical).

**Draft recommendation 7. Embedded network sellers of chilled water embedded networks be permitted to bill customers using either a consumption charge or a fixed daily rate. Sellers must use the same charging approach for all customers at a given site.**

UDIA supports this recommendation.

**Draft recommendation 8. Where an embedded network seller imposes a consumption charge for chilled water embedded networks:**

- a. the maximum consumption charge in kWh is equal to the maximum electricity tariff for embedded networks, and
- b. no additional fixed rate charge is permitted.

See response to recommendations 6.

**Draft recommendation 9. Where an embedded network seller imposes a consumption charge for chilled water embedded networks, the seller must provide information on the efficiency of the centralised air-conditioning system on the seller's website. The information must include:**

- The Energy Efficiency Ratio (EER)
- The Coefficient of Performance (COP)
- The energy input for the last financial year
- The energy output for the last financial year
- The system's brand name or model number, where available.

Noting IPART's recommendation that a maximum consumption charge should apply to chilled water embedded networks, it is considered an unnecessary compliance obligation to require further information on the centralised air-conditioning system.

Thus UDIA does not support the requirement to publish the Energy Efficiency Ratio, the Coefficient of Performance, the energy input for the last financial year, the energy output for the last financial year or the system's brand name or model number.

**Draft recommendation 10. Where an embedded network seller imposes a fixed daily rate for centralised air-conditioning, the maximum fixed daily rate be determined by:**

- taking the annual consumption benchmark for a comparable individual air-conditioning unit (i.e. for a given system size and star rating as per the products listed on the Commonwealth Government's Energy Rating website)
- dividing it by 365 71
- multiplying it by the benchmark electricity consumption charge.

UDIA supports this recommendation.

Draft recommendation 11. That the NSW Government enact legislation to authorise IPART to determine maximum prices for the sale of electricity, gas, hot and chilled water to customers in embedded networks in NSW.

UDIA supports this recommendation subject to the recommended changes to the methodology outlined in this submission.

Draft recommendation 12. That the NSW Government authorises the Energy and Water Ombudsman NSW (EWON) to:

- a. refer to the regulator any complaints that EWON reasonably suspects indicate an embedded network seller may have breached an embedded network pricing determination, and
- b. provide to the regulator any supporting information or documentation regarding customer complaints it receives related to embedded network sellers not complying with the maximum price.

UDIA supports this recommendation.

Draft recommendation 13. That the statutory framework:

- a. authorise the regulator to investigate whether an embedded network seller has complied with an embedded network pricing determination
- b. authorise the regulator, by notice in writing, to require an embedded network seller to provide information, documents or evidence for the purposes of an investigation
- c. provide that it is an offence, subject to a monetary penalty for non-compliance, to refuse or fail to comply with a notice requiring the provision of information, documents or evidence.

UDIA supports this recommendation.

Draft recommendation 14. Embedded network sellers be required to publish their current prices on their websites.

UDIA supports this recommendation.

Draft recommendation 15. The regulator be empowered to take one or more of the following enforcement actions where it is satisfied an embedded network seller has not complied with an embedded network pricing determination:

- a. directing an embedded network seller to take specified action within a specified timeframe to remedy the non-compliance
- b. impose a monetary penalty on the embedded network seller and/or a person who is the director of or involved in the management of an embedded network seller.

UDIA supports this recommendation.

Draft recommendation 16. The statutory framework require the regulator, before issuing a direction or imposing a monetary penalty to:

- a. consider the action the embedded network seller has taken or is likely to take in respect of the non-compliance, and be satisfied it is nevertheless appropriate to issue the direction/impose the penalty
- b. consider whether the non-compliance has been or is likely to be the subject of any other penalty or action or any claim for compensation, and be satisfied it is nevertheless appropriate to issue the direction/impose the penalty.

UDIA supports this recommendation.



**Draft recommendation 17. The statutory framework provide that failure by an embedded network seller to comply with a compliance direction of the regulator is an offence and is subject to a monetary penalty.**

UDIA supports this recommendation.

**Draft recommendation 18. That IPART be the regulator that determines and enforces compliance with the maximum prices for the sale of electricity, gas, hot and chilled water to customers in embedded networks in NSW.**

UDIA supports this recommendation.

**Draft recommendation 19. New hot and chilled water embedded networks are not prohibited in NSW.**

UDIA supports this recommendation.

**Draft recommendation 20. The NSW Government consider imposing additional disclosure requirements as part of its action to improve disclosure and consumer awareness for prospective purchasers and tenants under the Embedded Network Action Plan.**

IPART's proposed maximum pricing framework is an appropriate approach to protecting customers.

In this context UDIA contend that additional disclosure requirements are an unnecessary compliance obligation which will not improve protections for consumers.

# Conclusion

The recommendations of the Draft Report are largely supported by UDIA subject to the changes outlined above being implemented.

The continued operation of embedded networks in NSW, where implemented appropriately and by a licensed retailer, can bring substantial and ongoing benefits for consumers. Further regulation to address unscrupulous operators must not unfairly impede established providers business models, restrict consumer outcomes, or add additional costs to housing while NSW is in the midst of a housing crisis.

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T (02) 9262 1214 | E [udia@udiansw.com.au](mailto:udia@udiansw.com.au)  
Lvl 5/56 Clarence St, Sydney NSW 2000

[www.udiansw.com.au](http://www.udiansw.com.au)