

# Outasite Lite



*Margaret Nicoll (pictured with her partner Rod) is a home owner who is concerned about the impact of ever increasing electricity charges. She is trying to establish whether or not she is being correctly charged.*

## ELECTRICITY PRICING ARE YOU BEING OVERCHARGED?

*Julie Lee, Tenants' Union of NSW Residential Parks Officer*

**Electricity charges in land lease communities are a hot issue for home owners. Prices continue to rise and, when home owners purchase electricity from the operator, the charges are complex and difficult to understand. In this edition of *Outasite Lite* we will explore the laws, regulations and the charges.**

### THE MARKET

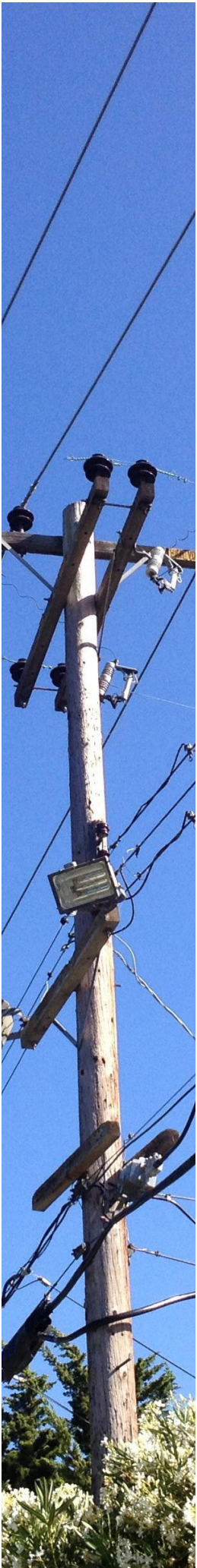
Retail electricity prices were deregulated in New South Wales as of 1 July 2014. This promoted greater competition in the market and encouraged more retailers, which led to better electricity deals for customers. Unfortunately,

for home owners in land lease communities access to the market is limited.

### NATIONAL RETAIL LAW

Most home owners in land lease communities purchase electricity from the operator. Under the National Energy Retail Law, any person or business that sells energy to another person for use at premises must have either a retailer authorisation or a retail exemption. Operators of land lease communities have a retail exemption and are required to comply with the Retail Rules.

In New South Wales electricity customers (including home owners in land lease



communities) have the right to purchase electricity from a retailer of their choice. However, those in land lease communities who want to change provider generally need to arrange and pay for a new meter to be installed. The cost of a new meter can be upwards of \$400 so making the switch is not cheap. Home owners have to weigh up the cost of a new meter against the potential savings of purchasing cheaper electricity from a different provider.

## LAND LEASE COMMUNITY LAW

The *Residential (Land Lease) Communities Act 2013* (the Act) and Residential (Land Lease) Communities Regulation 2015 (the Regulation) govern when and how operators can charge home owners for electricity. If the site agreement requires the home owner to pay utility charges to the operator, the use must be separately measured or metered and the operator must provide an itemised account and give the home owner at least 21 days to pay.

## TWO CHARGES

There are two separate charges for electricity and they are calculated differently. Usage is charged at a rate for each kilowatt hour and this is the same rate as that paid by the operator. The service availability charge (SAC) is a daily charge that is currently calculated in two different ways:

1. Those sites that are supplied with 60 amps or more of electricity pay a SAC based on what the operator pays.
2. Sites that are supplied with less than 60 amps pay a SAC based on the rate that a small customer on a standard retail contract with a local retailer would pay. This rate is discounted according to the level of supply.

## USAGE CHARGES

The maximum amount that operators can charge home owners under the Act is 'the amount charged by the utility service provider or regulated offer retailer who is providing the service for the quantity of service supplied to, or used at, the residential site.' Put simply, usage charges paid by home owners should be no more per kilowatt hour than what the operator is being charged.

Electricity usage charges were different under the (repealed) Residential Parks Act 1998 (the Parks Act). Under that Act the charge was based on the standing offer price that would be charged by the relevant local area retailer for new connections. Now that the price per kilowatt hour is the same as what the operator pays home owners should be paying less for electricity usage because the operator is able to negotiate a competitive rate in the retail market.

This pricing method is used in Queensland and in May 2015 the Director General (Department of Housing and Public Works) issued guidance to operators in that state because some were overcharging for electricity. The message was clear – that operators must pass on lower electricity prices to home owners i.e. the actual rate that they pay. It may be beneficial if the Commissioner issued similar guidance to New South Wales operators to ensure that home owners in land lease communities are not being overcharged.

## ACCESS TO INFORMATION

The Act provides a fair system for electricity usage charges but the difficulty facing home owners is that they almost never know what the operator pays. This makes it impossible to know whether they are being charged correctly. Section



83 of the Act requires the operator to provide a home owner with reasonable access to bills or other documents in relation to utility charges payable by the home owner to the operator, however it seems that operators are reluctant to share this information.

Margaret Nicoll is a home owner who is concerned about the impact of ever increasing electricity charges and she is trying to establish whether or not she is being correctly charged for usage. In August she submitted a written request to the operator of her community for copies of their bills. The operator has advised that they will respond by the end of September.

Operators are in breach of the Act if they fail to provide reasonable access to documents in relation to utility charges when requested. Home owners can apply to the NSW Civil and Administrative Tribunal for an order requiring the operator to provide access. Operators can also be fined for non-compliance with this section of the Act.

## SERVICE AVAILABILITY CHARGE

The service availability charge is the second charge that home owners pay to operators. The method for calculating this charge is set out in the Regulation and is complicated because two different methods are used.

## 60 AMPS OR MORE

The SAC for sites supplied with 60 amps or more of electricity is calculated by dividing the SAC paid by the operator by the number of residential places in the community. *Residential places* means all residential sites and all other sites connected to the electricity supply including holiday sites and sites

containing rented homes, whether or not these sites are occupied. Again, to put it simply the charge is calculated by dividing what the operator pays for availability by the number of sites in the community, regardless of use or occupation.

Like usage charges, home owners who want to check that their SAC is being correctly calculated need access to the operators bills and as we have alluded to above, operators appear unwilling to provide this access.

## LESS THAN 60 AMPS

The calculation for sites where the supply is less than 60 amps is based on what the home owner would be charged if they were a small customer on a standard retail contract with the local area retailer. The SAC is then discounted according to the level of supply as follows:

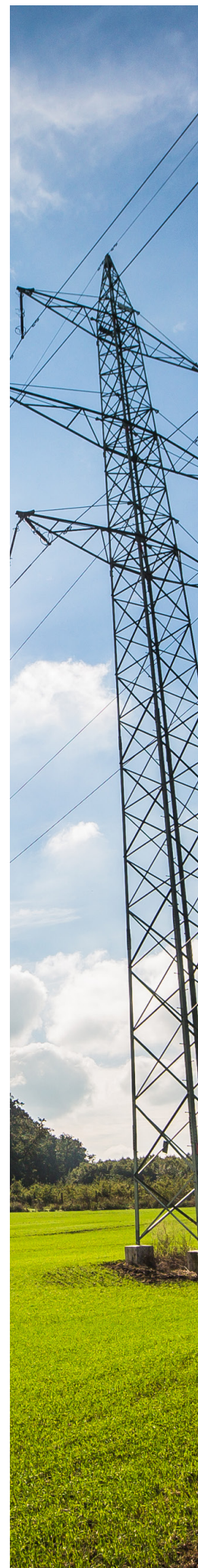
- if less than 20 amps is supplied the charge is 20% of the SAC
- if 20 – 29 amps is supplied the charge is 50% of the SAC
- if 30 – 59 amps is supplied the charge is 70% of the SAC

For these home owners it is easy to check that the charges are correct because the information is publicly available.

## AMENDMENT

As well as the difference in being able to access information about charges the Regulation has inadvertently led to some home owners who are supplied with 60 amps or more of electricity paying a lower SAC than those with a lesser supply. The Government recently issued a draft amendment to the Regulation, which was sent to stakeholders for comment.

The draft amendment seeks to undo the above anomaly by reintroducing



the system for calculating service availability charges that was in place under the Parks Act. Under that Act electricity service availability charges were prescribed in the 'Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks.' The Standards said that the park owner could charge the SAC at a rate no greater than that charged by the relevant local area retailer and this rate was discounted if the supply was less than 60 amps.

The percentage discounts under the Parks Act were the same as those in the current Regulation. The difference is that the base rate in the Parks Act was the same and therefore sites with a higher level of supply paid a higher SAC.

When we talked with home owners about the proposed amendment the overwhelming feedback was that they did not want to revert back to the old system because availability charges under standard contracts have increased significantly over the last few years and home owners are struggling to keep up. One home owner advised that her SAC has increased from 97c to \$1.14 a day and others in her community are paying \$1.49 per day. Margaret Nicoll told us "something has to be done. We are at the mercy of the operator. We cannot go to different energy companies to get a better deal."

Operators are not seeing the same increases in service availability charges because they can shop around the electricity market and negotiate a contract. Home owners want a fairer system.

In our submission the Tenants' Union suggested that further investigation should be undertaken before the amendment is finalised and that service availability charges should be capped at various rates according to the amps supplied but at a level sufficient to enable operators to maintain the network and administer the supply.

If you think you are being overcharged or have questions about your electricity charges contact your local Tenants Advice and Advocacy Service or NSW Fair Trading for free advice.

Get advice from your local service



## Tenants Advice and Advocacy Services

Eastern Sydney	9386 9147
Inner Sydney	9698 5975
Inner West Sydney	9559 2899
Northern Sydney	8198 8650
Southern Sydney	9787 4679
South Western Sydney	4628 1678
Western Sydney	8833 0933
Blue Mountains	4782 4155
Central Coast	4353 5515
Hunter	4969 7666
Illawarra South Coast	4274 3475
Mid Coast	6583 9866
Northern Rivers	6621 1022
North Western NSW	1800 836 268
South Western NSW	1300 483 786



## Aboriginal Tenants Advice and Advocacy Services

Greater Sydney	9698 0873
Western NSW	6884 0969
Southern NSW	1800 672 185
Northern NSW	1800 248 913



### The Tenants' Union of NSW is:

- A community legal centre specialising in NSW residential tenancies law.
- The main resourcing body for the NSW Tenants Advice and Advocacy Program.

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