

ESSENTIAL SERVICES COMMISSION

WRONGFUL DISCONNECTION DECISION UNDER SECTION 48A OF THE GAS INDUSTRY ACT 2001

CUSTOMER C & AGL Energy Limited

DECISION AND REASONS

Key Issue

A retailer's contract with a customer is terminated when another retailer becomes responsible for the supply address.

AGL requested Envestra to disconnect customer C for non-payment, the disconnection to occur after 20 days. Five days after the request was raised, customer C notified AGL that she had transferred to Lumo, and asked that her account be closed. After a further nine days, customer C contacted AGL to confirm that she transferred to Lumo. AGL could have objected to the transfer but did not. On the same day, AGL attempted to cancel the disconnection service order with Envestra; however, the cancellation was rejected by Envestra's system. As a result, the disconnection was not cancelled and customer C lost her gas supply on 21 September 2011.

The Commission found that AGL failed to use reasonable endeavours to cancel a disconnection for a consumer who was no longer its customer.

Background

<i>Date</i>	<i>Event</i>
2011	
14 January	C establishes a gas account with AGL
27 January	C contacts AGL for Centrepay number.
27 April	AGL checks credit rating; C has overdue invoices with good credit rating.
23 June	C contacts AGL for payment arrangement. C advises \$40/fortnight via Centrepay. AGL requests C to pay \$40/fortnight via Centrepay and pay the difference on bills. C agrees.
2 August	C requests for continuous payment plan. C advises \$102/fortnight. AGL creates bill smoothing plan.
31 August	AGL receives automatic advice of C's requested transfer to another retailer. AGL performs screening checks; best endeavours checks; day/night calls required before disconnection for non-payment.
1 September	AGL raises disconnection service order for C's non-payment – scheduled disconnection 21 September 2011.
6 September	C asserts that on this day she contacts AGL to advise 'gas account closed.' AGL receives automatic advice of C's transfer now pending.
8 September	Five business days after AGL receives notification of C's requested transfer. AGL has not objected to C's transfer.

<i>Date</i>	<i>Event</i>
15 September	C contacts AGL 'to confirm gas account closed' and 'advised finalised on 6 September 2011.' AGL receives automatic advice of C's transfer. completed with effect from 6 September. AGL cancels disconnection service order; Envestra rejects cancellation request stating 'Recipient not responsible for supplied MIRN'
21 September	Disconnection of gas
22 September	C advises no gas supply. AGL advises 'account transfer on 6 September 2011 needs to contact current provider.'
23 September	AGL received an email from Energy and Water Ombudsman Victoria (EWOV). Reconnection of gas.

Decision

Having considered the advice and information provided by EWOV and AGL, the Commission finds:

- the gas disconnection was wrongful as AGL lost its right to seek disconnection on 6 September 2011 when it was no longer the retailer responsible for customer C's supply address.
- the wrongful disconnection compensation is payable to customer C for the entire disconnection period from 21 September 2011 to 23 September 2011.
- AGL is required to pay customer C \$551 wrongful disconnection compensation under section 48A of the Gas Industry Act 2001.

Reasons

The reasons for the Commission's decision are as follows:

1. For the disconnection not to be wrongful, the retailer must have a contract with a customer and must not have breached the terms and conditions of that contract that set out the circumstances under which a customer's supply may be disconnected.
2. At the time AGL requested for disconnection of customer C's gas supply, AGL was the retailer responsible for her supply address.
3. Before the scheduled date of disconnection, AGL's contract with customer C was terminated by her transfer to another retailer. AGL was made aware of that termination by customer C and by normal business processes.
4. Once AGL was aware of the transfer, having taken no step to object to it, AGL lost all rights to disconnection.
5. AGL did not show that it had tried by email, phone or any other means, to withdraw its cancellation request once it was no longer the relevant retailer after receiving notice from Envestra that it had rejected an initial cancellation request.

6. If there is a lack of clarity on the B2B process between AGL and Envestra, it was AGL's responsibility to ensure that an agreed and consistent process is established with its service provider.
7. AGL failed to use reasonable endeavours to cancel the disconnection service order.
8. Envestra disconnected customer C in accordance with the disconnection request that AGL validly issued.

Dr. Ron Ben-David
Chairperson

Date: 2012