

ESSENTIAL SERVICES COMMISSION

WRONGFUL DISCONNECTION DECISION UNDER SECTION 40B of the ELECTRICITY INDUSTRY ACT 2000 (the Act)

CUSTOMER B (PROPERTY NO. 1A) & TRUENERGY

DECISION AND REASONS

Key Issue

TRUenergy (TRU) has conceded that it wrongfully disconnected customer B on 29 September 2011, but asserts that customer B's compensation entitlement is limited by customer B's alleged illegal reconnection of electricity supply. However, TRU has been unable to provide documents to show that customer B has undertaken such action at Property No. 1A before 10 October 2011. TRU has made a similar assertion about the disconnection of customer B's supply at her neighbouring property, Property No. 1.

The Essential Services Commission (the Commission) found that customer B did not reconnect her electricity supply at Property No. 1A before 10 October 2011, and customer B is entitled to wrongful disconnection compensation for the entire period.

Background

<i>Date</i>	<i>Event</i>
2008	
28 August	B establishes an electricity account for Property No. 1A.
2011	
18 August	TRU contacts B who says TRU should not call her, and hangs up.
29 September	Disconnection of electricity due to non-payment of \$1,486.40.
7 October	The Energy and Water Ombudsman (Victoria) (EWOV) requests reconnection
10 October	Reconnection of electricity
17 December	B transfers to new retailer
2012	
15 June	EWOV refers case to the Commission
19 June	Commission sends letters of acknowledgement to EWOV, TRU and B. No submission provided by B.
14 August	TRU provides written submission to the Commission. TRU admits wrongful disconnection but asserts B's compensation claim be limited as B took steps to illegally reconnect the electricity supply.
19 August	TRU provides additional information from SP AusNet but does not relate to Property No. 1A.
20 August	Commission requests TRU to confirm if it admits wrongful disconnection is for B's two properties.
21 August	Commission requests legal advice
30 August	TRU confirms wrongful disconnection on B's property at Property No. 1A.

Decision

Having regard to the advice and information provided by EWOV and TRU, the Commission finds:

1. TRU has conceded that it failed to comply with the terms and conditions of customer B's contract in that TRU failed to comply with clauses 11.2(4) and 13.2 of the Energy Retail Code (ERC) which are incorporated into the contracts by the ERC.

2. the wrongful disconnection compensation is payable for the entire disconnection period from 29 September 2011 to 10 October 2011.
3. TRUenergy is required to pay customer B \$2,794 wrongful disconnection compensation under section 40B of the Electricity Industry Act 2000.

Reasons

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

1. TRU has confirmed that it wrongfully disconnected customer B's electricity supply on 29 September 2011 for non-payment of \$1,486.40.
2. TRU has conceded that it failed to abide by the following clauses of the ERC:
 - a) Clause 11.2(4) requires the retailer to provide the customer with information on Utility Relief Grant Scheme, availability of financial counsellors and energy efficiency advice if (a) the customer contacts the retailer and an alternative payment arrangement was not agreed upon; or (b) the retailer believes the customer is experiencing repeated difficulties or requires payment assistance.
 - b) Clause 13.2 requires the retailer to not disconnect a domestic customer if the failure to pay is due to lack of sufficient income until the retailer has used its best endeavours to contact the customer in person or by telephone.
3. Although TRU has submitted that customer B reconnected the supply illegally sometime after the wrongful disconnection, TRU has not provided evidence of when any alleged illegal reconnection occurred and what energy was consumed on any given date during the period of any alleged illegal connection. Nor is there any other evidence (for example, information from SP AusNet) about the presence or nature of any illegal connection at the site.
4. Had the Commission been able to conclusively establish when the alleged illegal reconnection occurred, it would have been taken into account in the Commission's decision. In the absence of such information, the Commission considers that the wrongful disconnection must be assessed as having occurred for the period from the time TRU admits it occurred until reconnection was effected after request from EWOV.
5. Therefore, the wrongful disconnection compensation will be calculated from 29 September 2011 to 10 October 2011.

Other Matters

This Decision does not determine whether or when any alleged illegal reconnection actually occurred.

Dr. Ron Ben-David
Chairperson

Date: 2012