

## ESSENTIAL SERVICES COMMISSION

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

#### CUSTOMER W & AGL SALES

#### DECISION AND REASONS

##### **Key Issue**

After moving into the property in July 2012, Customer W set up an account with EnergyAustralia for both electricity and gas. However, on 18 September 2012, Customer W lost gas supply through a scheduled disconnection for non-payment, requested by AGL for another customer (Customer X).

Prior to the disconnection, AGL received a move-in transfer request from EnergyAustralia, with whom Customer W had arranged to open a gas account when she moved into the property. AGL accepted the move-in transfer request on 24 July 2012, but this request was subsequently cancelled by the Australian Energy Market Operator (AEMO) on 22 August 2012. Approximately a week later, AGL raised a disconnection service order for Customer X's non-payment of the account.

AGL does not believe it has to pay wrongful disconnection compensation to Customer W because the disconnection for non-payment was intended for the previous occupant. AGL asserts it was not aware that its customer, X, was no longer at the property.

##### **Background**

<b>Date</b>	<b>Event</b>
16 April 2012	X had both an electricity and a gas account with AGL. However, AGL's contact notes indicate that X's electricity account was closed due to a move-out
15 July 2012 – 30 August 2012	AGL assumed it had a gas account with Customer X, who moved out of the property at some stage during this period with a debt and did not advise AGL.
July 2012	Customer W moved into the property and established an electricity and gas account with EnergyAustralia
24 July 2012	AGL received a move-in transfer request for the property from EnergyAustralia
22 August 2012	The move-in transfer request was cancelled by AEMO
30 August 2012	AGL raised a service order for the disconnection of Customer X for non-payment – scheduled disconnection to take place on 18 September 2012.
18 September 2012	Gas to the property occupied by Customer W was disconnected
27 September 2012	Gas supply to the property was reconnected

## Decision

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

1. The gas disconnection was wrongful as AGL failed to comply with the terms and conditions of its deemed contract with Customer W in that AGL failed to comply with clauses 13.1 to 13.4 of the Energy Retail Code (ERC), forming part of the deemed contract.
2. The wrongful disconnection compensation is payable for the disconnection period from 18 September 2012 to 27 September 2012.
3. AGL is required to pay Customer W \$2,372 wrongful disconnection compensation under section 48A of the *Gas Industry Act 2001* (GIA).

## Reasons

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

1. For the disconnection to be lawful, the retailer must have a contract with a customer and must not have breached the terms and conditions of that contract relating to the circumstances under which a customer's supply may be disconnected.
2. AGL's contract to supply gas to Customer X at that property, the previous tenant who was AGL's customer, ended in accordance with clause 7.6(c) of the ERC when Customer W entered into a deemed contract by taking supply at the same address.
3. AGL's internal systems and processes should have detected that X had moved out of the property in that it had received a move out request from X in relation to electricity supply, and had a move in request from Customer W and had sent correspondence to X that was returned as 'left address/unknown' and, therefore, AGL should not have requested disconnection of the gas supply for X's outstanding debt
4. Under the deemed contract, AGL was obliged to comply with the terms and conditions of the ERC in disconnecting Customer W from the gas supply.
5. Clause 13 of the ERC sets out the only grounds on which a retailer may disconnect a customer; however:
  - clause 13.1 and 13.2 do not allow AGL to disconnect Customer W for non-payment (whether or not insufficient income is relevant), since AGL had not billed Customer W at the time of the disconnection
  - clause 13.3 does not allow AGL to disconnect Customer W for denying access to the meter since this has not been asserted or established
  - clause 13.4 does not allow AGL to disconnect Customer W for refusing to provide acceptable identification or payment of a refundable advance, since AGL had not sought either.
6. AGL breached the ERC by causing Customer W to be disconnected at the property and thus, the disconnection was wrongful.
7. AGL is required to pay Customer W wrongful disconnection compensation of \$2,372 (gas was disconnected for 9 days, 11 hours and 44 minutes).

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Dr. Ron Ben-David  
Chairperson

Date: 2013