

ESSENTIAL SERVICES COMMISSION

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

CUSTOMER B (PROPERTY NO. 1) & TRUENERGY

DECISION AND REASONS

Key Issue

TRUenergy (TRU) has conceded that it wrongfully disconnected customer B on 7 July 2011, but asserts that customer B's compensation entitlement is limited by customer B's alleged illegal reconnection of electricity supply. TRU has made a similar assertion about the disconnection of customer B's supply at her neighbouring property, Property No. 1A.

TRU has provided documents to show that customer B took steps to reconnect her electricity supply at Property No. 1 some time after its disconnection. TRU asserts that customer B did not make a request to TRU or to SP AusNet for reconnection, and that customer B's metered consumption for the period matches customer B's normal consumption which would support its assertion that customer B arranged an illegal reconnection fairly soon after disconnection.

TRU states that, given customer B's alleged illegal reconnection, TRU cannot calculate the correct wrongful disconnection compensation due to customer B.

The Commission found that customer B is entitled to wrongful disconnection compensation for the period of time up until reconnection was confirmed by SP AusNet.

Background

<i>Date</i>	<i>Event</i>
2007	
24 May	B establishes an electricity account for Property No. 1.
2011	
29 June	B contacts TRU to discuss account. TRU terminates call as B uses profanity.
7 July	Disconnection of electricity due to non-payment of \$2,338.89 (includes bill covering 24 February to 27 May 2011).
28 July	TRU's contact notes state no customer payment or customer contact after disconnection of Property 1A. TRU contacts B about Property No. 1A account. B advises 'she was unsure why her Centrepay payments had ceased.' B agrees to contact Centrelink then advise TRU of outcome.
10 August	B contacts TRU to establish Easy Way plan. TRU advises arrears need to be paid. B wants to speak with supervisor; transfers call. Unclear what took place, no further contact notes from TRU.
14 August	SP AusNet notes that supply is connected with a foil 'fuse'. Field representative replaces foil fuse with standard fuse as a safety precaution as B may reconnect herself again.

<i>Date</i>	<i>Event</i>
25 August	SP AusNet visits B's premises for scheduled meter reading, and activates B's record in the B2B computer system.
7 October	The Energy and Water Ombudsman (Victoria) (EWOV) contacts TRU to notify that both properties Property Nos. 1 and 1A are Ombudsman case. EWOV requests reconnection.
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 received from B.
14 August	TRU provides written submission to the Commission. TRU admits wrongful disconnection but asserts B's compensation should be limited or invalidated as B took steps to illegally reconnect the electricity supply.
19 August	TRU provides additional information from SP AusNet about the events on 14 and 25 August 2010

Decision

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

1. TRU conceded that it failed to demonstrate its compliance with the terms and conditions of B's contract in that TRU failed to comply with clauses 3.1(a), 11.2(3) and 11.2(4) of the Energy Retail Code (ERC) which are incorporated into the contracts by the ERC.
2. The wrongful disconnection compensation is payable for the period from 7 July 2011 to 14 August 2011.
3. TRU is required to pay B \$9,528 wrongful disconnection compensation under section 40B of the Electricity Industry Act (EIA) 2000.

Reasons

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

1. TRU has confirmed that it wrongfully disconnected B's electricity supply on 7 July 2011 for non-payment of \$2,338.89.
2. TRU conceded that it failed to abide by the following clauses of the ERC:
 - Clause 3.1(a) requires a retailer to issue a bill to a customer for energy consumed at the customer's supply address at least every three months in the case of an electricity account.
 - Clause 11.2(3) requires a retailer to offer a customer in financial difficulties an instalment plan unless the customer has failed to comply with two instalment plans in the previous 12 months and does not provide a reasonable assurance to the retailer of willingness to meet future payment obligations.
 - Clause 11.2(4) requires a 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.
3. Customer B is entitled to wrongful disconnection compensation in accordance with Section 40B of the EIA 2000. However, customer B's conduct limits her entitlement to the compensation based on the period of time up until

SP AusNet's visit to customer B's premises on 14 August 2011. By this time, it is clear that the service had already been physically reconnected.

4. In the period from 7 July to 14 August, it seems that the service may have been connected illegally and electricity consumed. In the absence of valid substantive information from TRU or SP AusNet, the Commission cannot establish the exact date when the alleged illegal consumption commenced.
5. 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 compensation must apply for the entire period.
6. For the purpose of calculating the wrongful disconnection compensation, the disconnection period starts from 7 July 2011 at 9.15am and ends on 14 August 2011 when SP AusNet visited B's premises and discovered that customer B's electricity supply was reconnected. The time of this visit has not been provided and is taken to be 11.59am.

Other Matters

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

Dr. Ron Ben-David
Chairperson

Date: 2012