

ESSENTIAL SERVICES COMMISSION
WRONGFUL DISCONNECTION DECISION
UNDER SECTION 40B OF THE *ELECTRICITY INDUSTRY ACT 2000*
CUSTOMER I & CLICK ENERGY
DECISION AND REASONS

Key Issue

On 28 November 2013 Click Energy (Click) disconnected the supply of electricity to the property of Customer I. On 31 October 2013, Click had emailed Customer I a disconnection warning notice. The notice contained the following statement:

If we have to disconnect your energy supply, this will occur no sooner than six business days after the issue date of this letter and we may do this remotely if you have a smart meter.

On 27 December 2013 Customer I arranged to have supply to the property reconnected.

Clause 13.1(c) of version 10a of the Energy Retail Code (the Code) requires, amongst other things, that prior to disconnecting a customer's supply the retailer must provide the customer a disconnection warning notice that includes in it a statement that "... the retailer may disconnect the customer on a day no sooner than seven business days after the date of receipt of the disconnection warning".

Click's market offer terms and conditions state that "[w]e will not disconnect you for not paying the bill by the due date unless we have complied with the relevant Codes and Guidelines". The term "codes and guidelines" is defined to include the Energy Retail Code (the Code).

The Energy and Water Ombudsman Victoria (EWOV) has referred this matter for consideration by the Essential Services Commission (the Commission). The Commission is asked to determine whether Customer I's electricity supply was wrongfully disconnected by Click in accordance with s 40B of the *Electricity Industry Act 2000* (the Act).

Background

<i>Date</i>	<i>Event</i>
August 2013	Click established an electricity account for Customer I.
1 October 2013	Click emailed Customer I an invoice for \$206.75.
21 October 2013	Click emailed Customer I a reminder notice for \$206.75.
31 October 2013	Click emailed Customer I a disconnection warning notice for \$206.75.
28 November 2013	Click disconnected the electricity supply to Customer I's property for non-payment of \$206.75.
31 December 2013	Electricity supply to premises reconnected.

Decision

Having considered the information provided by EWOV and Click, the Commission finds that Click:

1. Wrongfully disconnected Customer I's electricity supply.
2. Is required to make a wrongful disconnection payment to Customer I of \$3,500.

Reasons

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

1. Click was not entitled to disconnect supply to Customer I's premises unless it complied strictly and literally with the requirements of clause 13.1 of the Code.
2. Click did not comply with clause 13.1 of the Code. The disconnection warning notice Click sent to Customer I stated that Click may disconnect the supply of electricity to his premises no sooner than 6 business days from the date of issue of the notice, rather than no sooner than 7 business days from the date of receipt of the notice as required by clause 13.1(c).
3. Supply to Customer I's property was disconnected for 33 days, 2 hours and 14 minutes. However, as Customer I did not contact Click and inform them of the disconnection within 14 days of the disconnection, the wrongful disconnection payment is capped at \$3,500 under s 40B of the Act.

Richard Clarke
Acting Chairperson
Date: 4 March 2015