

ESSENTIAL SERVICES COMMISSION

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

CUSTOMER T & ORIGIN ENERGY

DECISION AND REASONS

Background

On 4 September 2009, Origin Energy established a gas account for the Customer.

On 13 April 2010, an instalment plan of \$40.00 per fortnight was established. On 18 May 2010 this instalment plan failed.

On 26 July 2010 the Customer agreed to make a once off payment of \$400.00 and a \$100.00 fortnightly instalment plan.

On 2 August 2010 the Customer made a payment of \$300.

On 9 September 2010 the Customer's instalment plan failed due to non-payment.

On 14 September 2010 the Customer made a payment of \$50.

On 15 September 2010, Origin Energy issued a reminder notice to the Customer.

On 22 September 2010, the Customer agreed to make a once off payment of \$200.00 to be paid on 24 September 2010 and a \$50.00 fortnightly instalment plan. The Customer's contact notes do not include any material to support an interpretation that Origin Energy assessed her capacity to pay at this time, even do the Customer made clear she was experiencing financial hardship.

On 27 September 2010, Origin Energy issued a disconnection warning notice

On 28 September 2010 the Customer made a payment of \$150.

On 21 October 2010 the Customer's gas supply was disconnected.

On 31 January 2011 Origin Energy wrote off the Customer's outstanding balance of \$932.34 as bad debt.

On 31 March 2011 the Customer's gas supply was reconnected.

In March 2012 EWOV referred the wrongful disconnection case of the Customer and Origin Energy to the Commission.

On 19 March 2012 the Commission wrote to Origin Energy and the Customer.

On 4 April 2012 Origin Energy provided a written response. Further clarification was sought and received by Commission staff on 16 April 2012.

On 2 May 2012 staff requested Origin Energy to clarify how it calculated the Customer's repayment amount of \$200 from 22 September 2010. Origin Energy's response on 10 May 2012 confirmed that the Customer stated how much she could afford to pay. No assessment of capacity to pay was undertaken by Origin Energy.

Decision

Having regard to the advice and information provided by EWOV, the Customer and Origin Energy the Commission finds:

1. The gas disconnection was wrongful as Origin Energy failed to comply with the terms and conditions of the Customer's contracts in that Origin Energy failed to comply with clause 11.2(1) of the ERC which is incorporated into the contracts by the ERC;
2. The wrongful disconnection compensation is payable for the entire disconnection period from 21 October 2010 to 31 March 2011.

3. Origin Energy is required to pay the Customer \$40,302 wrongful disconnection compensation under section 48A of the Gas Industry Act 2001.

Reasons

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

1. Origin Energy confirmed that it disconnected the Customer's gas supply on 21 October 2010.
2. Origin Energy has not demonstrated that it assessed the Customer's capacity to pay as required by clause 11.2(1) of the ERC.

Dr. Ron Ben-David
Chairperson

Date: 2012