

## ESSENTIAL SERVICES COMMISSION

### WRONGFUL DISCONNECTION DECISION UNDER SECTION 40B OF THE ELECTRICITY INDUSTRY ACT 2000

#### CUSTOMER M & AGL SALES

#### DECISION AND REASONS

#### Key Issue

AGL disconnected Mrs M's electricity supply on 7 November 2012, for non-payment of her account. AGL had previously placed M on a hardship program due to payment difficulties.

The Commission may consider whether AGL had assessed and offered appropriate assistance to M under the hardship provisions of the Energy Retail Code (ERC) and in particular, telephone information about energy efficiency and advice about financial counselling.

#### Background

Date	Event
20 March 2009	AGL established an electricity account for M at the supply address
October 2009 to February 2010	AGL & M established 2 instalment plans for \$60 per fortnight. M failed to maintain regular payments
4 August 2010 to 23 August 2010	M's sister acted as her delegate because M was "ill and had difficulty remembering things". AGL sent M a disconnection notice. Instalment negotiations failed and call was disconnected when AGL attempted to transfer her through to Credit Collections M subsequently made 3 X \$25 payments
29 October 2010	M contacted AGL to establish an instalment plan. Agreed upon 4 instalments paid over a 6 week period set out as \$784, \$260, \$260 and \$263.
9 November 2010 to 17 March 2011	M contacted AGL and requested a reduction in the amounts payable under the instalment plan. AGL sent M the Utility Relief Grant Scheme (URGS) forms to complete on 3 separate occasions
10 February 2011	M contacted AGL and an instalment plan was established
19 July 2011	M's electricity supply was disconnected for non-payment M contacted AGL and requested a new instalment plan of \$25 per fortnight AGL placed M on its hardship program and set \$100 fortnightly payments AGL sent M URGS forms
19 September 2011 to 29 September 2011	AGL cancelled M's instalment plan due to non-payment of account and 10 days later M contacted AGL and established an instalment plan of \$208.23 per fortnight for the current arrears of \$3480.50

Date	Event
30 November 2011 to 1 December 2011	<p>AGL disconnected M's electricity for non-payment of account. Arrears balance was \$3480.50</p> <p>M contacted AGL and advised that she could not pay due to medical expenses. M wanted to negotiate another instalment plan.</p> <p>AGL informed M that she had been removed from its hardship program and needed to make a payment of \$2000 before it would reconnect electricity</p>
1 December 2011	<p>M's sister contacts AGL and is informed she would need to make a payment of \$2767.86 before she was reconnected</p> <p>Investigated complaint registered with EWOV</p>
19 December 2011	<p>EWOV assessed M's electricity disconnection on 30/11/2011 and determined it to be wrongful because AGL had not complied with ERC hardship provisions including failure to provide energy efficiency advice over the phone</p>
12 July 2011 to 25 April 2012	<p>M makes regular fortnightly payments between \$25 - \$50 towards her account</p>
20 February 2012	<p>AGL contacts M to discuss arrears on account</p>
29 May 2012 to 22 June 2012	<p>M's sister contacts AGL and informs them that she didn't receive URGS forms and AGL resends.</p> <p>URGS payment of \$500 applied to M's account</p>
20 August 2012	<p>AGL disconnected M's electricity for non-payment of account. Arrears balance was \$2131.40</p> <p>Assisted referral raised with EWOV</p>
21 August 2012	<p>AGL contacted M's sister and agreed to reconnect</p>
7 September 2012	<p>AGL waitlisted M for a free home energy audit</p>
10 September 2012	<p>AGL undertook an internal investigation into disconnection on 20/8/12 and determined that it was in breach of ERC clause 11.2(4). WDP of \$320.49 applied to M's account</p> <p>AGL informed M's sister of the outcome and that she would be contacted in relation to site visit</p> <p>AGL notes state that "registered letter sent". No further information provided.</p>
4 October 2012	<p>AGL contacted M's sister to discuss an instalment plan and she terminated the call during a transfer</p>
10 October 2012	<p>AGL notes state that "registered letter sent". No further information provided.</p>
7 November 2012	<p>AGL disconnected M's electricity for non-payment of account. Arrears balance was \$2468.22</p>
9 November 2012	<p>M's sister raised an Assisted Referral with EWOV and electricity was reconnected</p>

## Decision

Having regard to the advice and information provided by the Energy and Water Ombudsman (Victoria) (EWOV) and AGL, the Essential Services Commission (the Commission) finds that:

1. The electricity disconnection on 7 November 2012 was wrongful as AGL failed to comply with the terms and conditions of its contract with M in that AGL failed to comply with clause 11.2(4) of the Energy Retail Code (ERC) which is incorporated into that contract by the ERC; and
2. The wrongful disconnection compensation is payable for the period from 7 November 2012 to 9 November 2012; and
3. AGL is required to pay M a total of \$510.00 wrongful disconnection compensation under section 40B of the Electricity Industry Act 2000

## Reasons

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

1. AGL confirmed that it disconnected M's electricity supply on 7 November 2012 and reconnected on 9 November 2012.
2. The obligations of ERC clause 11.2 and its sub-clauses applied to AGL and this is demonstrated in AGL's contact notes. The retailer's notes show that, in its opinion, M exhibited indicators of hardship and it sought to provide assistance under all relevant ERC clauses contained in 11.2.
3. Clause 11.2(4) of the ERC requires a retailer to provide a customer exhibiting signs of financial hardship with advice about concessions including the Utility Relief Grant Scheme, access to independent financial counsellors and telephone information about energy efficiency.
4. There is no record of AGL staff providing M with telephone advice about energy efficiency and access to independent financial counsellors.
5. AGL's internal investigation, dated 10 September 2012, into an earlier disconnection concluded that there had been two opportunities for staff to have provided M with telephone advice about energy efficiency and financial counselling.
6. AGL has not provided evidence that registered letters allegedly sent to M on 10 September 2012 and 10 October 2012 were received by M, nor has it provided evidence concerning the contents of those letters.
7. Based on information provided, AGL has failed to demonstrate that it offered appropriate assistance to M prior to the disconnection of the electricity supply. Therefore it appears that AGL has not complied with ERC clause 11.2(4).
8. AGL is required to pay M wrongful disconnection compensation of \$510.00 (electricity was disconnected for 2 days and 1 hour).

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**Dr. Ron Ben-David**

Chairperson

Date: 2013