

## ESSENTIAL SERVICES COMMISSION

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

MR C & AGL SALES

#### DECISION AND REASONS

##### **Key Issue**

Mr C established a gas account with AGL Sales (AGL) on 5 August 2008. AGL disconnected C's gas supply on 24 January 2013, for non-payment of his account.

Clause 13.1(d) of the Energy Retail Code (ERC) states that a retailer is obligated to provide a customer with advice about financial assistance if the customer has made enquiries through the retailer's payment assistance line, printed on the retailer's disconnection warning notice.

The Commission was asked to consider whether AGL complied with clause 13.1(d) of the ERC and provided C with advice about financial assistance prior to the disconnection.

##### **Background**

Date	Event
The chronology below is based on information submitted by EWOV and AGL, and considered by the Commission in assessing this case. Entries shaded grey were determined by the Commission not to be relevant to this decision.	
5 August 2008	AGL established a gas account for C at the supply address.
7 October 2009 to 31 May 2011	C had a history of payment difficulties including payment extensions, failed payment plans, significant arrears and disconnection for non-payment
1 June 2011	C contacted AGL and requested the reconnection of his gas supply. C agreed to make a payment of \$100 by 2 June in order to have gas supply reconnected.
2 June 2011	C paid \$100.00 towards gas account.
7 June 2011	AGL contacted C and both parties agreed that C would make three fortnightly payments of \$30 commencing 14 June 2011. Outstanding gas account balance was \$1,458.36.
21 June 2011	AGL sent C the URGS form to complete.
3 September 2011	C received URGS payment of \$393.57.
20 September 2011	AGL contacted C and agreed to place C on its hardship program if he made a payment of \$100.00. He would then be placed on a \$20.00 per fortnight instalment plan.

27 September 2011	C paid \$100.00 towards gas account
17 April 2012	AGL disconnected C's gas supply (details of reconnection unclear). C contacted AGL and requested reconnection of his gas supply. AGL offered to place C on its hardship program if he made a payment of \$100. C paid \$100 towards gas account. AGL requested four fortnightly payments of \$80.
23 July 2012	AGL placed C on its hardship program and required C to pay \$50 per fortnight from 31 July 2012.
3 June 2011 to 11 September 2012	C made 12 payments towards the gas account with amounts varying between \$30 and \$100. The last payment before disconnection was on 11 September 2012.
24 October 2012	AGL contacted C and he advised that he had stopped receiving his Centrelink benefits. C agreed to pay AGL \$50 per fortnight commencing from 8 November 2012. C's gas account balance was \$1,828.03.
4 December 2012	AGL removed C from its hardship program due to non-participation.
14 December 2012	AGL contacted C regarding gas account arrears. C advised that he could only afford \$50 per fortnight as he was on a disability pension.
18 December 2012	AGL sent C a disconnection warning notice for \$1,768.47 with a due date of 27 December 2012.
31 December 2012	AGL contacted C by telephone and sent him a registered letter.
21 January 2013 from 1:39 pm to 5:49 pm	AGL made three outbound calls to C (and C made one call to AGL). There was no voice contact or message.
21 January 2013 at 6:02 pm	C contacted AGL by telephone and requested URGS forms for electricity but AGL advised him that his account was with another retailer. C advised that he could not afford to make a payment towards the gas account. AGL declined his request to establish another instalment plan and did not offer him any further assistance.
24 January 2013 at 11:40 am	Gas supply was disconnected.
29 January 2013 at 2:00 pm	After EWOV called AGL, gas supply was reconnected.

## **Decision**

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

1. Following the issue of the disconnection warning notice, C contacted the retailer and sought AGL's advice on financial assistance but AGL has not demonstrated that it then responded by providing the required advice (although it had provided similar advice previously); and
2. The gas disconnection was wrongful as AGL failed to comply with the terms and conditions of its contract with the customer in that AGL failed to comply with clause 13.1(d) which is incorporated into the contract by the ERC; and
3. The wrongful disconnection compensation is payable for the disconnection period 24 January 2013 to 29 January 2013; and
4. AGL is required to pay C \$1,274 wrongful disconnection compensation under section 48A of the *Gas Industry Act 2001*.

## **Reasons**

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

1. Before issuing a disconnection warning, AGL assessed C's capacity to pay and provided information, advice and assistance in accordance with relevant obligations. However, the Energy Retail Code also requires a retailer who has issued a disconnection warning to respond again to a customer's telephone request and provide advice on financial assistance.
2. Following the issue of the disconnection warning notice and AGL's attempted telephone contacts, C contacted the retailer on 21 January 2013 at 6:02 pm and advised that he could not afford to make a payment towards his gas account and sought AGL's assistance. According to AGL's contact notes, C was informed about the outstanding debt on his gas account. C thought he could apply for the URGS for electricity but his account was with another retailer. However, AGL's contact notes do not show that C was provided with advice about other forms of payment assistance such as access to an independent financial counsellor.
3. If the customer telephones the retailer after receiving a disconnection warning the retailer is obliged to provide the required advice in response, notwithstanding that the retailer may have given similar advice on previous occasions.
4. There is no indication in either EWOV or AGL's submission that AGL's Hardship script was followed during the telephone conversation with C on 21 January 2013 at 6:02 pm. AGL's Hardship script, when followed, refers to all forms of payment assistance available to customers experiencing payment difficulties.
5. AGL is required to pay C wrongful disconnection compensation of \$1,274 (gas was disconnected for 5 days, 2 hours and 20 minutes).

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Dr. Ron Ben-David

Chairperson

Date: 2013