

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

Key Issues

Customer B moved into the premises on 16 August 2013, and began taking supply of electricity. Lumo Energy (Lumo) was the financially responsible market participant (FRMP) for the premises under the National Electricity Rules. Lumo established an anonymous “occupier account” for the meter at the premises when it was notified that the previous occupant had moved out.

The address listed for the National Meter Identifier Number (NMI) of the meter at the premises in the Market Settlements and Transfer Solution (MSATS) database (the MSATS listed address) did not exist. As Lumo relies on MSATS for its postal data, the account was established under this (incorrect) address. Lumo’s welcome letter was returned to Lumo, marked “return to sender”.

As Customer B had not contacted Lumo since it posted the welcome letter, Lumo posted disconnection warning notices addressed to the MSATS listed address. Having received no contact from the customer, Lumo arranged for the distributor to disconnect electricity supply to the premises remotely. Lumo submits that it disconnected electricity supply in accordance with clause 13.4 of the Energy Retail Code (the Code), because the customer failed to provide identification when required.

The Energy and Water Ombudsman Victoria (EWOV) has asked the Commission to determine whether the disconnection of electricity supply to Customer B’s premises was wrongful under section 40B of the Electricity Industry Act (the Act) and, if so, the amount of any payment Lumo is required to make to Customer B.

Background

<i>Date</i>	<i>Event</i>
12 August 2013	Previous occupant advised that they were vacating the premises. Disconnection order for NMI was issued to the distributor by Lumo.
21 August 2013	Welcome letter was issued under occupier account sent to the MSATS listed address, Warrandyte South.
23 August 2013	Lumo advised by distributor that a meter exchange had taken place and the property’s electricity supply was active.
29 August 2013	Lumo received welcome letter returned to sender.
29 August 2013	Lumo sent disconnection warning notice addressed to the occupier at the MSATS listed address.
6 September 2013	Lumo sent second disconnection warning notice addressed to the occupier at the MSATS listed address.
1 October 2013	Supply to the premises was disconnected remotely.
7 October 2013	Customer B contacted EWOV and electricity supply to the premises was reconnected. EWOV found that the MSATS listed address did not appear in www.landvic.com.au .
8 October 2013	Lumo received a transfer request for the NMI from Momentum Energy.
10 October 2013	MSATS was updated to reflect the correct address for the NMI.

Decision

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

1. In disconnecting the supply of electricity to Customer B's premises, Lumo failed to comply with the terms and conditions of the contract specifying the circumstances in which the supply of electricity to those premises may be disconnected. Hence Lumo is required to pay Customer B wrongful disconnection compensation under s 40B of the Act.
2. The wrongful disconnection compensation payable is for the whole of the period during which the electricity supply to Customer B's premises was disconnected – 6 days, 5 hours and 50 minutes, between 1 October 2013 and 7 October 2013.
3. In accordance with section 40B(1A)(5)(b) of the Act Lumo is required to pay Customer B wrongful disconnection compensation of \$1,561.

Reasons

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

1. The supply of electricity to Customer B's premises was subject to a deemed contract under section 39 of the Act. Customer B was a customer of Lumo for the duration of the contract, therefore the wrongful disconnection regime established under section 40B of the Act applies. According to section 39(1)(a) of the Act, the terms and conditions of the contract were Lumo's standing offer terms and conditions.
2. Clause 29 of Lumo's standing offer terms and conditions requires each party to comply with the Code.
3. In disconnecting electricity supply to Customer B's premises Lumo did not comply with clause 13.4 of the Code as:
 - A. The customer was not required to provide identification to Lumo. In particular:
 - i. Clause 1 of the Code does not apply to the customer. This clause is properly read as only applying to new contracts entered into by the customer choosing an energy retailer, not to deemed contracts formed by the taking of supply.
 - ii. Lumo's correspondence to Customer B did not request that the occupier of the premises provide identification to Lumo to continue receiving supply.
 - B. Lumo failed to give the customer a disconnection warning, as required by clause 13.4(a) of the Code. Lumo had received an indication (in the form of the returned welcome letter) that the address to which it was posting correspondence relating to the supply of electricity to the premises associated with the NMI may have been incorrect. As Lumo posted the warning to the same address, without undertaking any checks, Lumo's disconnection warning cannot be deemed to have been received by the customer.

Dr Ron Ben-David

Chairperson

Date: 18 November 2014