



WRONGFUL DISCONNECTION PAYMENT DISPUTE
ORIGIN ENERGY AND THE COMPLAINANT

STATEMENT OF REASONS

NOVEMBER 2007

Introduction

Section 48A of the *Gas Industry Act 2001* places a licence condition on retailers that requires them to compensate a customer if the retailer disconnects the customer's supply and does not comply with the terms and conditions of the customer's contract that specify the circumstances in which the supply may be disconnected. The retailer must compensate the customer for each day that the customer's supply is disconnected.

Clause 6.5 of the Commission's Operating Procedure – Compensation for Wrongful Disconnection (Operating Procedure) requires that where the Energy and Water Ombudsman Victoria (EWOV) is unable to resolve a claim for the wrongful disconnection compensation payment with the agreement of the retailer and the customer, EWOV must refer the claim to the Commission for a decision in accordance with clause 7 of the Operating Procedure.

Background

EWOV requested the Commission to make a formal decision as to whether Origin Energy complied with its retail licence in relation to a dispute between THE COMPLAINANT and Origin Energy regarding a wrongful disconnection compensation payment for THE COMPLAINANT.

From information provided from EWOV, it is understood that THE COMPLAINANT's gas supply was disconnected at 9.45am on Thursday 31 May 2007 and reconnected at 6.20pm on Friday 1 June 2007. THE COMPLAINANT has called Origin Energy on two separate occasions to discuss the reconnection of the supply. In addition, THE COMPLAINANT's sister has also called Origin Energy to request reconnection but was unable to arrange for the gas supply to be restored.

Origin Energy stated that it had attempted to contact THE COMPLAINANT via notices (original invoices, overdue notices and disconnection warnings) and two registered letters to seek information regarding payment, but received no response from THE COMPLAINANT. Origin Energy believes that it has complied with all relevant obligations in relation to wrongful disconnection legislation, Operating Procedures and the Energy Retail Code (ERC).

However, the Commission notes that Origin Energy did not strictly adhere to the provisions of the Energy Retail Code that outline the number of business days required when sending reminder and disconnection notices and the corresponding pay by dates. Origin Energy has informed the Commission that its billing system is based on calendar days rather than business days. These system parameters resulted in public holidays in March and April not being taken into consideration.

Issues

For the disconnection to be wrongful the retailer must have breached the terms and conditions of the contract that set out the circumstances under which a customer's supply may be disconnected.

Terms and Conditions Relating to Disconnection

The terms and conditions of the contract between THE COMPLAINANT and Origin Energy are set out in the Energy Retail Code (ERC).

Clause 13.1 of the ERC states that a retailer may only disconnect the supply address of a customer, being a customer who fails to pay the retailer by the relevant pay by date an amount billed in respect of that supply address. However, before disconnecting a customer, the retailer must give the customer a reminder notice not less than 14 business days from the date of the dispatch of the bill. The reminder notice must include a new payment due date which is not less than 20 business days from the date of dispatch of the bill.

Furthermore, the ERC also states that a retailer must give a customer a disconnection warning not less than 22 business days from the bill's dispatch date. The disconnection warning must include a new pay by date which is not less than 28 business days from the bill's dispatch date.

The account notes and billing history provided by Origin Energy indicate that the bill the disconnection relates to was issued on 3 April 2007. The reminder notice was sent on 23 April 2007, with a payment due date of 2 May 2007. The Commission notes that between 3 April 2007 and 23 April 2007, there were only 12 business days rather than the required 14 business days. Further, there were only 19 business days, rather than the required 20 days, between when the reminder notice was sent and the payment due date of 2 May 2007.

In addition, the disconnection warning notice in relation to the bill of 3 April 2007 was issued on 7 May 2007, only 21 business days from 3 April 2007, rather than the required 22 business days.

It is considered that notwithstanding the billing system parameters that Origin Energy has outlined to the Commission, that Origin Energy has not complied with Clause 13.1(b) of the ERC in this instance.

Decision

In accordance with clause 7 of the Operating Procedure, the Commission has investigated the alleged breach by Origin Energy of its retail licence in relation to the disconnection of THE COMPLAINANT.

While the Commission acknowledges that Origin Energy sent THE COMPLAINANT reminder notices and disconnection warnings in accordance with the provisions of the ERC, these notices did not provide her with the required number of business days as outlined in Clause 13.1(b) of the ERC.

Accordingly, the disconnection of THE COMPLAINANT's gas supply was wrongful and compensation is required. The compensation payment is to apply from 9.45am on 31 May 2007 until 6.20pm on Friday 1 June 2007. The amount due is \$335.85.

A W DARVALL
Delegated Commissioner
November 2007