

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

Key Issue

On 24 January 2014, Click Energy (Click) disconnected the supply of electricity to the property of Customer M. On 10 January 2014, Click had sent Customer M a disconnection warning notice. The notice contained the following statement:

If we have to disconnect your energy supply, this will occur no sooner than six business days after the issue date of this letter and we may do this remotely if you have a smart meter.

Customer M called Click on 29 January 2014 to request reconnection of her electricity supply. Click requested a payment of \$390 and a receipt number to reconnect supply. The customer states Click would not agree to establish an instalment plan.

On 3 February 2014, Click called Customer M in response to an assisted referral from the Energy and Water Ombudsman Victoria (EWOV). Click offered an instalment plan and requested payment of a \$60 reconnection fee. Click states Customer M terminated the call, and that attempts were made to call her back, but were not successful. On 11 February 2014, Customer M called EWOV to initiate an investigation. EWOV arranged for a reconnection on this date.

Clause 13.1(c) of version 10a of the Energy Retail Code (the Code), which applied at the time of the disconnection, requires, amongst other things, that prior to disconnecting a customer's supply the retailer must provide the customer a disconnection warning notice that includes in it a statement that "... the retailer may disconnect the customer on a day no sooner than seven business days after the date of receipt of the disconnection warning".¹

Click's market offer terms and conditions state that "[w]e will not disconnect you for not paying the bill by the due date unless we have complied with the relevant Codes and Guidelines". The term "codes and guidelines" is defined to include the Code.

EWOV has referred this matter for consideration by the Essential Services Commission (the Commission). The Commission is asked to determine whether Customer M's electricity supply was wrongfully disconnected by Click in accordance with s 40B of the *Electricity Industry Act 2000* (the Act), and to determine the amount of any wrongful disconnection payment owed to Customer M.

Background

Date	Event
22 March 2013	Click established an electricity account for Customer M.
17 September 2013	Click called Customer M in relation to outstanding account balance of \$291.43. Customer M stated that she would pay the full amount within the week. Customer M did not make any payments.
30 December 2013	Click issued a reminder notice for outstanding balance of \$508.10.
10 January 2014	Click issued a disconnection warning notice for outstanding balance of \$508.10.
24 January 2014	Click disconnected supply of electricity to Customer M's premises.
29 January 2014	Customer M called Click to request reconnection of her electricity supply. Click requested a payment of \$390 to reconnect supply.
3 February 2014	Click called Customer M in relation to an assisted referral initiated by EWOV, offered an instalment plan, and requested payment of a \$60 reconnection fee. Customer M refused to make the payment and terminated the call.
11 February 2014	Customer M called EWOV and initiated an investigation. EWOV contacted Click and arranged for reconnection on this day.

¹ Under the equivalent provision of version 11 of the Energy Retail Code the disconnection warning period must not be shorter than six business days after the date of issue of the disconnection warning notice.

Decision

Having considered the information provided by EWOV and Click, the Commission finds that Click:

1. Wrongfully disconnected Customer M's electricity supply.
2. Is required to make a wrongful disconnection payment to Customer M of \$4,548.

Reasons

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

1. Click was not entitled to disconnect supply to Customer M's premises unless it complied strictly and literally with the requirements of clause 13.1 of the Code.
2. Click did not comply with clause 13.1 of the Code. The disconnection warning notice Click sent to Customer M stated that Click may disconnect the supply of electricity to her premises no sooner than 6 business days from the date of issue of the notice, rather than no sooner than 7 business days from the date of receipt of the notice as required by clause 13.1(c).
3. Supply to Customer M's property was disconnected for 18 days, 4 hours and 37 minutes. As Customer M contacted Click and informed them of the disconnection within 14 days of the disconnection, the wrongful disconnection payment is the uncapped amount of \$4,548 for the total period of disconnection under s 40B of the Act.

Dr Ron Ben-David

Chairperson

Date: 18 March 2015