

Attention: Khayen Prentice
Essential Services Commission

21 April 2011

Dear Khayen

SUBJECT: SUBMISSION ON DISCONNECTION AND RECONNECTION

Simply Energy welcomes the opportunity to comment on retailers' obligations regarding the disconnection and reconnection of customers.

Simply Energy wishes to emphasise that disconnecting customers remains the very last resort for managing customers who for one reason or another cannot pay their bills. We prefer to work with customers who find themselves in financial difficulties and unable to pay their bills. While of obvious benefit to the customer, it can also be of benefit to Simply Energy as it can often strengthen brand loyalty and ensures that the customer remains engaged with the retailer increasing the chances of the retailer recouping the money it is owed. In most instances, we find that customers want to meet their commitments and there is a willingness on both sides to come to some mutually agreeable arrangement.

We have addressed each of the three issues raised in the Consultation Paper in the sections that follow.

Mutual responsibility between retailers and customers

The issue that has been raised in section 2.1.1 of the Consultation Paper is whether an obligation should be placed on customers to respond to retailers' communications with regard to the offer of further instalment plans.

The way the Code is currently drafted means that a retailer cannot disconnect a customer unless the customer makes contact with the retailer. There have been numerous occasions where, despite the retailer using phone calls and letters, the retailer has not been able to make contact with the customer either because the customer refuses or is reluctant to reply to the retailer's communications. As a result, the retailer cannot comply with the Code requirements surrounding disconnection.

Simply Energy agrees with the Commission's preliminary view that the existing regulation could be amended so that if the retailer makes reasonable attempts to communicate with a customer about further instalment plans but the customer does not engage with the retailer then the retailer will have met their obligations to that customer prior to any decision to disconnect the customer.

Disconnection is a highly regulated area and retailers have a number of requirements that they must meet prior to any disconnection occurring. We believe these existing provisions are sufficient for ensuring that customers are not disconnected without due process being followed by the retailer.

In the following, Simply Energy responds to the specific questions raised by the Commission.

1. *What can be reasonably expected of the retailers in communicating to customers after a failed first and second instalment plan?*

It could be expected that the retailer attempt to contact the customer via telephone and by letter if telephonic contact cannot be made. The content of the letter should contain no more than inform the customer that they have defaulted on their repayment plan and provide contact details for the customer to use. The letter should also allow the customer a reasonable timeframe within which the customer must contact the retailer. However, if the customer does not contact the retailer within that timeframe then the retailer should be allowed to then enter into its disconnection procedures.

There should be no requirement for any written correspondence to include details regarding an alternative instalment plan. Such a requirement is impossible for retailers to comply with because it is impossible for the retailer to understand the reasons why a customer has not complied with previous instalment plans and to design an alternative payment plan without a discussion with the customer.

2. *How could the regulation be drafted to provide minimum, but flexible communications while allowing for industry best practice?*

To implement the change, we suggest that the Commission amend clause 13.1 of the Retail Code so that a retailer

“may only disconnect the supply address of a customer if:

... the customer fails to comply with either their first or subsequent instalment plan, the retailer has used best endeavours to contact the customer *and* the customer fails to respond to the retailer’s requests.

where ‘best endeavours’ could be defined as including both verbal and written communications sent to the customer.

Other clauses may also require amendment to ensure the Code remains internally consistent. For example, it may be necessary to amend other parts of clause 13.1 so that there is no contradiction in the Code.

3. *How can retailers communicate and encourage further contact from customers who may be embarrassed because of their financial circumstances? Is regulation appropriate in these circumstances?*

Simply Energy is aware that many customers can be embarrassed about their financial situation and this can make them reluctant to discuss the matter with their energy retailer. The non-payment of energy bills can be a symptom of more serious stresses that the customer may be experiencing in their lives and thus dealing sympathetically with customers is more likely to encourage customers to remain in contact with their retailer. While each retailer will be different, Simply Energy tries to manage this situation in the messaging it uses when communicating with customers and the way that we deal with their situation when they do they make contact. As noted earlier, our preference is to remain engaged with these customers so we try to ensure that the way we communicate with customers encourages them to seek assistance.

We don’t believe that regulation will help in any way and we are little unclear what it is the Commission would be seeking to regulate. A customer’s embarrassment can’t be regulated and neither can the way in

which retailers communicate with the customer. Whether the message trying to be delivered to the customer is considered sympathetic is very subjective and will vary depending on the customer's circumstances.

Simply Energy believes that governments could be playing a much bigger role in this space. Currently, there is very little broad community encouragement for individuals to seek help if they find themselves in financial difficulties and very little information available to the public on where help can be obtained. There is a need for advertising along the lines currently seen for those suffering gambling or alcohol problems or depression to encourage those in financial difficulties to seek help and provide details of how individuals can get that help.

4. Should there be an obligation placed on customers to respond to the retailers' communications or would this be simply symbolic gesturing?

It is fairly difficult for the Commission to place a direct obligation on customers as we don't believe the Commission has authority over customers to force them to comply. The more workable solution is to allow retailers to enter into the disconnection process provided retailers have made reasonable efforts to communicate with the customer.

Obligations to apply to small customers

Simply Energy agrees with the Commission's preliminary view that customers on Flexible Payment Plans should not necessarily have the benefit of the existing disconnection provisions which were designed to manage disconnection for customers who have insufficient income to pay their bills. This group of customers usually seek flexible payment arrangements for convenience rather than as a result of having insufficient income.

Obligation to reconnect customers within a certain timeframe

Section 2.2 raises the issue of clause 15.2(b) which places the absolute obligation on the retailer to reconnect a customer within certain timeframes.

Simply Energy is of the view that clause 15.2(b) should be deleted. Placing this obligation on a retailer is inappropriate because the timing of when connection occurs is not something retailers have full control over. As the Commission is aware, retailers are requesters of connection/re-connection services ultimately actioned by distributors and thus we are ultimately relying on the distributor for us to comply with 15.2(b). All retailers can do is request that reconnection occur — they cannot guarantee that the distributor will do the reconnection when required.

Conclusion

Thank you for the opportunity to comment on the issues you have raised in the Consultation Paper. If you would like to discuss this submission with me, please call (03) 8807 1132.

Yours sincerely

Dianne Shields
Legal & Regulatory Manager