



WRONGFUL DISCONNECTION PAYMENT DISPUTE

ORIGIN ENERGY AND THE COMPLAINANT

STATEMENT OF REASONS

APRIL 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 (IOP) 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 IOP.

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.

The Complainant took occupancy of the property on 13 October 2006 and assumed the supply of gas from the incumbent retailer - Origin Energy – while making arrangements to transfer to another retailer (Retailer X). On 13 November 2006 their gas supply was disconnected for alleged unauthorised consumption.

Origin Energy advised that following the final reading for the previous tenant, conducted on the 31 August 2006, it became aware of usage at the property, averaging 1 unit per day. Origin Energy attempted to contact the occupier by mail on three occasions, the last being a letter issued on 12 October 2006 advising of imminent disconnection if the occupier did not make contact to establish an account. The Complainant advised that as they had moved into the property on 13 October 2006, this was the only letter they received.

According to Origin Energy screen notes they received a request for transfer of the property on 23 October which was later cancelled on 9 November 2006. On the same day a disconnection order was raised. A second transfer request was raised on 10 November 2006 for 15 November and was still pending on 13 November, when the property was disconnected.

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.

It is the Commission's opinion that, in accordance with the legislation, the Complainant was on a deemed contract with Origin Energy from the date of occupancy. It is a condition of the retail licence, under clause 8.3, that retailers provide specific information to a customer who is party to a deemed contract as soon as practicable after becoming aware of the deemed contract.

Specifically:

- That there is deemed to be a contract between the customer and the licensee for the supply and sale of gas
- Sets out the tariff and summarises other terms and conditions under the deemed contract
- Describes the methods by which the deemed contract may be terminated and related terms and conditions and
- Outlines the options available to the customer

Origin Energy stated that they were not aware of the date on which the Complainant moved into the property and it is acknowledged they did not appear to make any attempt to contact them. Nevertheless, in the seven weeks prior to the first market transfer request being lodged, Origin Energy was aware that gas was being consumed at the property, hence the property was occupied. Receipt of the first market transfer confirmed occupancy of the premises. Origin Energy therefore ought to have been alerted to its obligations under sub-section 46(1) of the GIA and treated the Complainant as a customer on a deemed contract.

Decision

In accordance with clause 7 of the OP, the Commission has investigated the alleged breach by Origin Energy of its retail licence in relation to the disconnection of the Complainant. Assuming the reported facts are correct, the Commission has decided that Origin Energy did not comply with all the relevant terms and conditions of the Complainant's contract in relation to their disconnection.

Therefore, the disconnection of the Complainant was wrongful and a compensation payment is required. The compensation payment is to apply from 10.30 am on 21 August 2006 to 6.15 pm on 22 August 2006. The amount due is \$341.25.

Signed

R H SCOTT
Delegated Commissioner

February 2006