



WRONGFUL DISCONNECTION PAYMENT DISPUTE

AGL AND THE COMPLAINANT

STATEMENT OF REASONS

OCTOBER 2007

Introduction

Section 40B of the *Electricity Industry Act 2000* 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 AGL complied with its retail licence in relation to a dispute between The Complainant and AGL regarding a wrongful disconnection compensation payment for The Complainant.

From information provided from EWOV, it is understood that The Complainant's electricity supply was disconnected on 13 March 2007. However, due to their limited English language skills and given that they had an appointment to see their financial counsellor two days later (on 15 March 2007), they did not contact AGL to seek reconnection immediately. At the appointment on 15 March 2007 their financial counsellor contacted AGL on The Complainant's behalf.

When contacted by the financial counsellor, AGL stated that The Complainant had requested that AGL finalise their account and to disconnect their supply at their property. AGL stated that as the disconnection was due to a request from The Complainant, the wrongful disconnection payment was not applicable. However, The Complainant is adamant that they did not contact AGL at any time to request that their account be finalised.

On 15 March 2007, the supply was reconnected at the property.

The financial counsellor, on behalf of The Complainant, requested that compensation be paid for the inconvenience caused to the family for being without electricity supply.

The Complainant sent a claim form to AGL for loss of food and travelling expenses to their sister's place for cooking and showering to the value of \$860. They did not provide any receipts with their claim which was as follows:

- | | |
|--|-------|
| ○ Frozen meat | \$395 |
| ○ Frozen processed food | \$200 |
| ○ Frozen vegetables | \$ 35 |
| ○ Fresh vegetables and miscellaneous items | \$150 |
| ○ Petrol for travel expenses | \$ 80 |

AGL's contact notes display that on 6 March 2007 The Complainant called AGL to arrange a disconnection on 9 March 2007. Although AGL is aware of The Complainant's statement that they did not request a disconnection, AGL states that it is possible that there was some misunderstanding between the customer service consultant and The Complainant because of language difficulties. However, AGL also notes that there is evidence that The Complainant did not have language difficulties based on a voice recording for their acceptance of a market contract in 2006.

When investigating any possibility that someone else may have requested the disconnection on The Complainant's behalf, AGL does not believe the disconnection could have been arranged without The Complainant's consent due to AGL's strict privacy policies and that The Complainant is the only financially responsible person on the account. AGL states that accounts cannot be activated or deactivated without first checking and aligning a customer's personal information with the information AGL has on its account. AGL believes that The Complainant contacted AGL on 6 March 2007.

AGL stated it is of the firm understanding that the property was not wrongfully disconnected and as such the wrongful disconnection payment is not warranted in this instance.

In acknowledgement of any inconvenience caused to The Complainant and in resolution of this complaint, AGL agreed to compensate The Complainant \$500.

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 AGL are set out in the Energy Retail Code (ERC). The ERC only permits disconnection after proper procedures are followed if a customer:

- does not pay a bill
- denies access to the meter
- does not provide acceptable identification or a refundable advance or
- requests disconnection.

Clause 13.5 states that a retailer must disconnect a customer and, if requested, finalise the customer's account in accordance with the customer's request.

AGL argues that it finalised the account in accordance with the customer's request, as required by clause 13.5 of the ERC and did not wrongfully disconnect The Complainant's electricity supply. AGL is unable to provide further documentary evidence to support its position that it did not disconnect The Complainant's supply in error.

The Complainant maintains that they did not contact AGL to request a disconnection for the property they were living in.

Notwithstanding the above, in order to resolve the complaint, AGL agreed to provide compensation to The Complainant. The Complainant claimed \$780 for the cost of food spoilt and \$80 for the cost of petrol. AGL and The Complainant agreed to \$500.

In accordance with clause 7.2(b) of the Operating Procedure, consideration was given to meeting with AGL and The Complainant in a further attempt to clarify whether the error was AGL's or The Complainant's. Neither party availed themselves of this opportunity. However, it is doubtful that further discussions with either The Complainant or AGL will provide any additional information to enable a different conclusion to be reached.

Decision

In accordance with clause 7 of the Operating Procedure, the Commission has investigated the alleged breach by AGL of its retail licence in relation to the disconnection of The Complainant. Given that it is unclear whether The Complainant was disconnected as a result of an error by AGL or an error by The Complainant, the Commission cannot conclude that AGL did not comply with its licence and the contract terms and conditions relating to the disconnection of The Complainant.

Whilst the Commission cannot determine whether a wrongful disconnection compensation is therefore payable to The Complainant, the Commission considers that the compensation payment AGL made to The Complainant for spoilt food and petrol for travel expenses (totalling \$500) appears to be a fair and reasonable outcome.

A W DARVALL
Delegated Commissioner
October 2007