

Essential Services Commission Act

Undertaking to the Essential Services Commission for the purposes of Section 54ZD of the
Essential Services Commission Act (Vic) 2001

by

Momentum Energy Pty Ltd ABN 42 100 569 159

Person giving the undertaking

1. This undertaking is given by Momentum Energy Pty Ltd (ABN 42 100 569 159) of Level 8, 530 Collins Street, Melbourne VIC 3000 (**'Momentum'**) to the Essential Services Commission (**'the Commission'**) for the purposes of Section 54ZD of the Essential Services Commission Act (Vic) 2001.

The Commission's concerns

2. The Commission is concerned that Momentum disconnected the supply of electricity to a customer's premises on 21 July 2022 after being notified by the customer on 13 July 2022 that they were experiencing payment difficulty in relation to their gas account and referring the customer to Momentum's hardship team.
3. A retailer must not arrange for the supply of electricity at a relevant customer's premises to be disconnected except in accordance with Subdivision 3, as required under section 40SE(1) of the Electricity Industry Act 2000 (EIA).
4. As required under section 40SM(1)(f) of the EIA, which falls under Subdivision 3 of the EIA, a retailer may arrange for the supply of electricity at a relevant customer's premises to be disconnected if the retailer has complied with any requirements relating to the disconnection of the supply of electricity at a relevant customer's premises specified under an applicable Code. In this context, the Energy Retail Code of Practice (version 1) (ERCOP) is an applicable Code.
5. Under clause 187(1)(a)(iii) of the ERCOP, a retailer must have at all times acted fairly and reasonably in relation to a residential customer in order to arrange disconnection of the premises of the residential customer.
6. In these circumstances, the Commission considers that the conduct outlined in paragraph 2 does not constitute Momentum Energy having acted fairly and reasonably. In particular, Momentum Energy failed to apply a hardship flag on the customer's account which would have entitled the

customer to protections against disconnection (it is noted that this was as a result of an IT error and that Momentum Energy staff did attempt to apply the hardship flag to the relevant account) and that Momentum only made one attempt to contact the customer between their disclosure of hardship on 13 July 2022 and arranging for their electricity supply to be disconnected on 18 July 2022. As such, the Commission considers Momentum to have contravened clause 187(1)(a)(iii) of the ERCOP, which amounts to a contravention of sections 40SM(1)(f) and 40SE(1) of the EIA.

Admissions & Resolution

7. Momentum acknowledges that the conduct outlined in paragraph 2 is likely to have contravened clause 187(1)(a)(iii) of the ERCOP, which amounts to a contravention of sections 40SM(1)(f) and 40SE(1) of the EIA.
8. Momentum reconnected the supply of electricity to the customer's premises on the same day it was disconnected.
9. Momentum applied a wrongful disconnection payment of \$86.44 and a good will payment of \$413.56 (total of \$500) to the customer's account on 27 July 2022.
10. Momentum has already taken a number of steps to rectify the circumstances giving rise to the conduct of concern including:
 - (a) resolving the system error that prevented the hardship flag from being applied to the customer's account;
 - (b) creating and monitoring system exceptions / error reporting on a daily basis to identify system errors of the same nature in the future, should they re-occur; and
 - (c) reviewing and updating its internal risks and controls regarding disconnections for non-payment.
11. Momentum also offers an Undertaking to the Commission to resolve its concerns. The Undertaking is outlined in paragraph 13.

Commencement of this Undertaking

12. This Undertaking comes into effect when:
 - (a) the Undertaking is executed by Momentum; and
 - (b) the Undertaking so executed is accepted by the Commission(the '**Commencement Date**').

Undertaking

13. From the Commencement Date and for a period of 24 months (the '**Term**'), Momentum undertakes for the purposes of section 54ZD of the Essential Services Commission Act (Vic) 2001, that it will implement and maintain a Compliance Improvement Action Plan (as set out in **Annexure A**).
14. Momentum must notify the commission in writing within 5 business days of any failure to comply with this Undertaking.

Publication of Undertaking

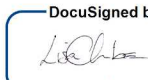
15. Momentum acknowledges that:
 - (a) the Commission may make this Undertaking publicly available by publishing it on its website;
 - (b) the Commission may, from time to time, make public reference to this Undertaking including in news media statements and in Commission publications; and
 - (c) this Undertaking in no way limits the rights and remedies available to any other person arising from the alleged conduct.

Costs

16. Momentum acknowledges that it must pay all of its own costs in relation to this Undertaking (including but not limited to development and implementation of the Compliance Improvement Action Plan).

Executed as an Undertaking

Executed by Momentum Energy Pty Ltd by its authorised officer.

Signed: 
C21274551CBD4B0

Print name: Lisa Chiba

Title: Managing Director

This 03 February 2023 | 3:56 PM AEDT

Accepted by the Essential Services Commission pursuant to Section 54ZD of the Essential Services Commission Act (Vic) 2001.

Signed: 

Print name: Kate Symons

Title: Chairperson

This day of 8 February 2023

Annexure A – Compliance Improvement Action Plan

Training

1. In addition to providing the regular suite of on-going training to its staff, Momentum will perform a training needs analysis to review and ensure that all relevant roles within the organisation are provided with the skills, knowledge and abilities required of them to comply with energy disconnection regulatory requirements. Momentum's Learning and Development Team, with oversight from Momentum's Legal and Compliance teams, will perform the training needs analysis within 3 months of the Commencement Date.
2. Momentum will conduct an out-of-cycle review of, and if required update, all training materials, procedural documents and supporting material such as quick reference guides and frequently asked question documents which address energy disconnections to ensure they reflect best practice. Momentum's Learning and Development Team will update relevant training and supporting documents within 6 months of the Commencement Date.
3. In addition to its regular suite of on-going training, Momentum will deliver the training material outlined in paragraph 2 to the relevant roles across its organisation identified by the training needs analysis outlined in paragraph 1. Initial training will be delivered, and refresher training will be scheduled, in accordance with the training needs analysis. Momentum's Learning and Development Team will deliver the revised training to its employees within 12 months of the Commencement Date.

Quality assurance and compliance monitoring

4. Momentum will ensure that 100% of disconnection for non-payment service orders are manually reviewed on the day prior to their scheduled disconnection date to identify any exceptions (for example, a customer contacting Momentum after a disconnection service order was raised and before it is completed) and cancelling disconnection service orders, when required.
The reviews will be conducted by members of Momentum's Credit Operations team and Momentum's Senior Credit Manager will manage and have oversight of this process.
Momentum will begin the reviews on or before the Commencement Date of this Undertaking.

Regular reports to Momentum Senior Management

5. Momentum will provide reports to its senior leadership team including, but not limited to, Momentum's Managing Director, on a regular basis (at least monthly) addressing implementation of, and compliance with, the Compliance Improvement Action Plan.

Provision of Compliance Improvement Action Plan documents to the commission

6. Momentum will provide the Commission with interim progress updates on its implementation of this Undertaking on the 6, 12 and 18 month anniversary of the Commencement Date.
7. Momentum will provide the Commission with a final report on its implementation of this Undertaking on the 24 month anniversary of the Commencement Date.
8. Momentum will maintain a record of and store all documents relating to the implementation of the Compliance Improvement Action Plan for a period not less than 3 years from the Commencement Date.
9. If requested by the Commission within 3 years of the Commencement Date, Momentum must cause to be produced, and provided to the Commission, copies of any relevant documents relating to the Compliance Improvement Action Plan.