

## ENFORCEABLE UNDERTAKING

### ESSENTIAL SERVICES COMMISSION ACT 2001

Undertaking to the Essential Services Commission given for the purposes of section 54B of the Essential Services Commission Act 2001 (Vic)

by

Momentum Energy Pty Ltd (ACN 100 569 159)

#### Person giving the undertaking

Momentum Energy Pty Ltd (ACN 100 569 159) (**Momentum Energy**) gives the Essential Services Commission (the **Commission**) this enforceable undertaking in accordance with section 54B of the Essential Services Commission Act 2001 (Vic).

#### Background

In 2018, Momentum Energy notified the Commission that the electricity supply to the premises of a number of customers (**Relevant Premises and Relevant Customers**) was disconnected following receipt of a disconnection warning notice, which failed to state that disconnection could occur remotely as required by clause 110(2)(h) of the Energy Retail Code (the **Defective Notices**).

On 15 May 2019, the Commission provided Momentum Energy with its decision and reasons in respect of one of the Relevant Customers. The Commission decided that Momentum Energy had failed to comply with the terms and conditions of its contract with that customer specifying the circumstances in which the supply of electricity to that customer's premises may be disconnected. Specifically, the requirement for the disconnection warning notice to state that disconnection could occur remotely as required by clause 110(2)(h) of the Energy Retail Code.

#### Momentum Energy's commitments

This undertaking relates to the actions Momentum Energy will take in relation to making compensation payments to 844 Relevant Customers as required under section 40B of the Electricity Industry Act 2000 (Vic) (**Compensation Payment(s)**) commencing from the date on which this undertaking is accepted by the Commission (**Commencement Date**).

1. For any Relevant Customer who continues to be supplied with electricity from Momentum Energy at the Relevant Premises, Momentum Energy will as soon as practicable but in any event within 4 weeks of the Commencement Date:
  - a. apply as a rebate to the customer's electricity account, the relevant amount of Compensation Payment Momentum Energy is required to pay that customer; and
  - b. inform the customer in writing that this rebate has been applied to their electricity account as compensation from Momentum Energy because they had been issued with a Defective Notice.
2. For any Relevant Customer who is no longer supplied with electricity from Momentum Energy at the Relevant Premises, Momentum Energy will use best endeavours to contact the customer over a period of 4 months from the Commencement Date, including taking the following minimum actions:

- a. No later than 4 weeks from the Commencement Date, Momentum Energy will attempt to contact the Relevant Customer using the primary method of communication described in sub-paragraph (d).
- b. If the Relevant Customer has not contacted Momentum Energy within 4 weeks after the contact attempt described in sub-paragraph (a), Momentum Energy will attempt to contact the Relevant Customer again using the primary method of communication described in sub-paragraph (d).
- c. If the Relevant Customer has not contacted Momentum Energy within 4 weeks after the second contact attempt described in sub-paragraph (b), Momentum Energy will attempt to contact the Relevant Customer a further time using the supplementary method of communication described in sub-paragraph (e).
- d. The primary method of communication is both posting a letter to the last postal address associated with the customer's account and, if an email address is associated with the customer's account, sending an email to any email address associated with the account. The letter and email will inform the customer that they are entitled to a Compensation Payment from Momentum Energy because they had been issued with a Defective Notice, and invite the customer to contact Momentum Energy as soon as possible regarding this payment. The template for the relevant letter and email has been approved by staff of the Commission prior to Momentum Energy sending these letters and emails to Relevant Customers.
- e. If a phone number is associated with the customer's account, the supplementary method of communication is:
  - i. Where a mobile phone number is associated with the customer's account, sending a message by short message service (SMS) to the primary mobile phone number associated with the customer's electricity account and calling the customer once only to inform them that they are entitled to a Compensation Payment from Momentum Energy. If the customer does not answer the telephone call, Momentum Energy will leave a message where possible. The SMS will inform the customer that they are entitled to a Compensation Payment from Momentum Energy, and invite the customer to contact Momentum Energy as soon as possible regarding this payment. The template for the relevant SMS message has been approved by staff of the Commission prior to Momentum Energy sending these messages to Relevant Customers. The script for the phone call has been approved by staff of the Commission prior to Momentum Energy making the phone calls to Relevant Customers.
  - ii. Where a land line phone number is associated with the customer's account, calling the customer once only to inform them that they are entitled to a Compensation Payment from Momentum Energy. The script for this call has been approved by staff of the Commission prior to Momentum Energy making the phone calls to Relevant Customers. If the customer does not answer the telephone call, Momentum Energy will leave a message where

possible. The content of the message will be consistent with the template for the relevant message by SMS, as outlined in paragraph 2(e)(i) above.

3. Where a Relevant Customer who is no longer supplied with electricity from Momentum Energy still has an electricity account in debit, as soon as possible but in any event within 4 weeks of the Commencement Date, Momentum Energy will:
  - a. apply as a rebate to the electricity account of that customer, the relevant amount of Compensation Payment Momentum Energy is required to pay that customer; and
  - b. inform the customer in the primary method of communication described in paragraph 2 above that the Compensation Payment to which they are entitled will be or has been (as the case requires) applied as a rebate to their electricity account.
4. For any Relevant Customer who contacts Momentum Energy in response to the actions in paragraph 2, Momentum Energy will pay the Compensation Payment or remaining part thereof where the customer's electricity account is in credit following the action set out in paragraph 3 (as the case requires) directly to the Relevant Customer within 14 days of the customer contact by electronic funds transfer or, where the customer agrees, by applying it as a rebate to another electricity or gas account that the customer has with Momentum Energy, or such other method as the customer reasonably requests.
5. Momentum Energy will publish this undertaking on its website with an associated webpage that provides customers with information about the Defective Notices and that they may be entitled to a Compensation Payment. The undertaking and the associated webpage will be located on the Momentum Energy 'News' page of the Momentum Energy website and will remain on the Momentum Energy website for a period of 4 months from the Commencement Date.
6. Momentum Energy will create records of each step set out in paragraphs 1 to 4 above. Those records will be kept in accordance with Momentum Energy's normal record keeping practices.
7. Momentum Energy will provide the Commission with monthly progress reports, starting 1 month after the Commencement Date and concluding 6 months from the Commencement Date. These progress reports will include: the actions taken by Momentum Energy in relation to paragraphs 1 to 4 above, the results of those actions, the status of each action and the proposed timing for any outstanding actions.

#### Acknowledgments

8. Momentum Energy acknowledges that:
  - a. The Commission will make this undertaking publicly available including by publishing it on the Commission's website.
  - b. The Commission may, from time to time, make public reference to this undertaking including in media statements and in the Commission's publications.


- c. This undertaking in no way derogates from the rights and remedies available to any other person arising from the Defective Notices.
9. Momentum Energy may withdraw or vary this undertaking with the consent of the Commission.

**Executed by**

Momentum Energy Pty Ltd (ACN 100 569 159) by its authorised officers pursuant to section 127(1) of the Corporations Act 2001 (Cth).

  
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Secretary/Director

  
.....  
Print name

  
.....  
Director

**Stephen Gregory Davy**  
.....  
Print name

**Stephen Gregory Davy**

This 12 day of AUGUST 2019.

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

  
.....  
Acting Chairperson

  
.....  
Print name

This 14 day of August 2019.

(Commencement Date)