

Thursday, 7 November 2013

## **PRIORITY URGENT**

To The Essential Services Commission

Respected Commissioners,

### **Section 1**

I wish to bring to the attention of the Commission and the Commissioners, the proposition certain practices of United Energy are in violation of normal commercial practices. I would contend that United Energy has used false and misleading information which is causing stress and anxiety. I would also contend that they have done this knowingly and with deliberate forethought.

They have done this in relation to the proposed installation of so called "Smart Meters". I and many others have notified United Energy (herein after referred to as UE) that we do not want these particular meters installed. The reply has been that their installation is compulsory, and that there is legislation making it so. An example of the actual words used is as follows;

*"We wrote to you recently with information on the Victorian Government's compulsory smart meter program for all Victorian households and small businesses."*

I, in turn wrote back;

*"I require you to provide me with the Act, the Section. and the paragraph, in which such compulsion is specified. From my research I can find no such authority. If there is no such legislation I then require you to cease and desist from causing concern, distress, and anxiety to myself and my fellow consumers in this manner."*

Their reply did not comply with my requirements. The following is the applicable part of their 5 page response;

*In order to improve electricity delivery and management, the Victorian Government mandated that all residential and small business electricity customers must have their existing meter replaced with a smart meter by the end of 2013, and there is no option to "opt out" of the installation and keep the old meter.*

*The previous Victorian Labour Government mandated the roll out of the smart meter program by establishing a heads of power in Division 6A of the Victorian Electricity Industry Act 2000 (the EIA) and prescribing various requirements through an Order in Council made under this heads of power. Under this legislative framework, an obligation was placed on Victoria's distribution businesses to install remotely read interval meters (smart meters) for all customers with annual electricity consumption of 160MWh or less, by December 2013. A copy of the relevant Order in Council can be found at the Victorian Government Gazette website ([www.gazette.vic.gov.au](http://www.gazette.vic.gov.au)).*

In this I contend the word “mandated” is used in a misleading manner and calculated to give the impression that it is **compulsory** and further this impression is reinforced by the use of the word “must”.

As UE failed to give the specific information required I must conclude that they are attempting to rely on Government Order in Council No. S200 of 28<sup>th</sup> August 2007 clause 14.1 , there the distributors are required to “use their best endeavours” to complete the rollout of AMIs. I contend that this does not authorise them to use improper means such as:

- Misrepresenting the order in council
- Presenting a misleading implication that there was legislation involving compulsion
- Coercing
- Bullying
- Threatening to cut off power
- Causing stress and anxiety
- Giving false and misleading information
- Violating acceptable codes of commercial behaviour, including but not limited to commercial harassment.

There is further evidence of intention to mislead however I shall address that in due time.

## **Section2**

I would draw attention to the fact that the Essential Services Commission Code of Conduct for Marketing Retail Energy in Victoria at page 6 para 3.1 requires that information supplied to consumers shall be written in plain English and designed to be readily understood by consumers.

Further in 3.2 **Conduct** it is stated that marketers and retailers must comply with all applicable Commonwealth State and Territory laws in relation to:

- a. Misleading, deceptive or unconscionable conduct
- b. Undue pressure, harassment or coercion , and
- c. The quality, form and content of marketing information

I would contend that these are also reasonable criteria to apply to the roll out of the so called smart meters, and that the power companies including UE must be aware of them, and obliged to conform with them.

## **Section 3**

I now respectfully, strongly request the Essential Service Commission to act urgently in the matters detailed herein in regard to United Energy, and others, who may have acted in the same or a similar manner. Indeed I have literally hundreds of my friends, colleagues, associates and acquaintances who have expressed the same or similar concerns.

I do this under the terms of your published Charter of Consultation and Regulatory Practice, page 9 including, but not limited to, the provisions for reviewing service standards, , developing, amending and monitoring compliance with regulatory instruments, resolving disputes between service providers and users, and conducting public education programmes on the regulatory framework and ensuring that framework adequately protects customers.

Further I draw attention to p11, especially the provision “*accessible to, and inclusive of, all relevant stakeholders by providing them all reasonable opportunity within a reasonable time frame to participate in our consultation processes*”

I respectfully request that I be recognized as a stakeholder, and that the matter be considered as urgent, if it is to be considered in a reasonable time frame as is required in the commission’s charter. In this regard UE has stated in writing , that all customers **MUST** have the smart meter installed “by December 2013”. Their documentation contains a threat that my power supply may be disconnected.

#### **Section 4**

I therefore request that the Commission **immediately** send notices to United Energy, and others concerned, an immediate instruction, that they are to cease and desist, from any further such improper and/or illegal activities.

I request that I may be present at the Inquiry and Consultations,

I also request immediate acknowledgment of receipt of this transmission.

Sine Cere

[Name withheld]