

**Peter Hamilton**

**From:** "Jim Staples" <bigjims@cyberone.com.au>  
**To:** "Peter Andren" <Peter.Andren.MP@aph.gov.au>  
**Sent:** Tuesday, 1 July 2003 11:59 AM  
**Subject:** EnergyAustralia

There's a new boy on the block to-day, so I am giving him his first thump. If I don't get a reaction, what do I do?

J.F. Staples, 144 Shepherd Road, Bywong NSW 2621 fon/fax 02 62 36 90 87

1 July 2003

The Chairman,

*Repet & sent Beamer News*

The Competition and Consumer Commission,

470 Northbourne Avenue, Canberra 2600.

Dear Sir,

EnergyAustralia

I seek your intervention, in the public interest, in my dispute with a corporation trading under the name and style EnergyAustralia. It is a trading corporation owned by the Government of New South Wales. It distributes and sells electricity to industry and homes.

I am a rural domestic retail customer of the corporation.. I have paid all bills rendered by them for electricity consumed. The corporation is now demanding \$662.02 in a new context.

**The corporation threatens to disconnect electricity from my house, without warrant under our contract, unless I enter into an extra contract with it or a third party for work to be done on part of its distribution system, in the name of bushfire prevention.**

**It wants me to pay to alter its service lines which cross an open grazed paddock to my house. By law, service lines are deemed, expressly, not to be part of my electrical installation and to belong to the distributor. It owns the service lines. The point of law is beyond dispute. The law limits my duty of expenditure to paying for my consumption of electricity and for the maintenance of my installation in a safe condition in and around my house. It does not allege that that installation is unsafe. Disconnection in these circumstances is unconscionable in all the circumstances.**

I am not the only one affected in this dispute. This matter has impacted in the Hunter Valley upon thousands and, probably, its outcome will soon impact upon a hundred thousand or more domestic retail consumers of electricity living elsewhere in rural and regional non-urban situations in New South Wales. Others are also threatened with disconnection. The amount claimed varies. One person, remotely housed, has received a demand to pay \$16 000, I am told. EnergyAustralia looks at the world through our pockets to cover its costs and risks.

It does not allege that there is a *likelihood* of fire or personal danger to any person or of property damage to me or another deriving from its service lines. The law gives account to what is reasonably likely, not to what is theoretically possible. If there is a defect, which I deny, in their service lines across my land, it is not decay due to me. If there is a defect, it derives from EnergyAustralia itself or the body to whose assets and liabilities it has succeeded, the Hunter Valley County Council. In any event it is a defect *in its property*.

The outcome of this dispute is of the widest social import. Many customers have already capitulated to the corporation's demands. Some are holding out. No other electricity distributor, publicly or privately owned in New South Wales, is making similar demands on its customers at this point of time. However, the nature of the corporation in the age of *de facto* or *de iure* privatisation being what it is, one may fairly expect that success for EnergyAustralia in the present instance will not pass unnoticed by other like bodies.

The demand is unlawful under the laws of New South Wales. It is an abuse of market power, an act of duress and in all the circumstances unconscionable.

1/07/03

The conduct of EnergyAustralia repudiates the rationale of the history of public ownership of electricity production and distribution in this State. The provision of electricity *to every rural citizen's home* at tolerable prices set under statutory controls and prices justification processes to meet the costs of the supply derives from high public policy determined in the early post-war period. The electrification of the countryside had not until then been achieved in the countryside in the market place. Social, public provision of electricity to country householders resulted.

The money claimed in the present instance is demanded without recourse to or prior authority of public review. The demand of EnergyAustralia now in issue has been made outside the laws providing public and prior oversight over the pricing policies and charges of public utilities, as in the case of bus and rail transport, water, sewerage, electricity, gas and other services. EnergyAustralia has discovered from the banks the art of extra charges.

The demands of EnergyAustralia have been served upon persons *irrespective of their personal ability to meet the demand*, and upon a cost structure which is, at least in my case, founded on gross inefficiency in the task, and upon facts which, when put to the claimant, have not been denied or justified.

In many cases, it is a levy upon the poor, upon pensioners. For myself, I do not plead any inability to pay. I have made an offer of a certain sum to be paid under protest, with all reservation of right, and without admissions. That sum has not been determined on a pinch-penny basis, and has not been offered provocatively. It gives account to the facts, irrespective of my liability. My offer has been twice refused.

In pursuit of its claim against its customers, the corporation has made unarguably false representations to its customers of the meaning, intent and substance of the law. And It refers to "private lines". At law, "private lines" are the lines strung around, internally, the vast acres of steel works, metal refineries, railway workshops, coal mines, airports, seaports, military bases and other large non-domestic industrial places. They are an integral part of the capital of the undertaking. They are, in the ordinary course, in the consumer's title. At law, "service lines" carry the electricity from the local mains to the domestic customer's electricity meter box. EnergyAustralia has suppressed the statutory category of "service lines."

Is it honest that EnergyAustralia has never once mentioned the phrase "service lines" to domestic customers who have complained - a phrase that peppers its legislation and always in a context that damns its present claim? It misleads people by handing out its rules for "private aerial lines". They are not relevant to domestic consumers. And then it invokes the laws for the safe supply of electricity.. It is absolutely creative about the ambit, intendment and effect of these provisions. See the Electricity Supply Act 1995, the Electricity Supply (Safety and Network Management) Regulation 2002, the Electricity Safety Act 1945, the Electricity Safety (Electricity Installations) Regulation 1998:  
[www.austlii.edu.au](http://www.austlii.edu.au).

It prints its own law in its correspondence with me and others. In my case, when challenged as to its lawful entitlements and the bona fides of its price, it has abandoned its previous reliance on the compulsions of law, and now relies solely on its ultimatum of disconnection on or soon after 1 September, 2003.

There are only 8 weeks to D-Day. Disconnection of electricity is an ultimate threat to a householder. A private suit to restrain the corporation is beyond the means of any affected customer known to me.

I ask you to restrain EnergyAustralia from disconnecting my power, from ceasing and failing to sell me electricity for my household purposes. It would be an abuse of economic power, of undue duress and on every account and in all the circumstances unconscionable for them to do so.

Yours faithfully,

J. Staples