



PRESS RELEASE

The Belgian Energy Ombudsman initiates a collective redress action against hidden termination fees in energy contracts

At the request of the Federal Energy Ombudsman, the Belgian Consumer Ombudsman Service has initiated a class action against energy suppliers ESSENT, LUMINUS, OCTA+, MEGA, ENERGY PEOPLE and ZENO with view to reaching a collective settlement. The Federal Energy Ombudsman disputes the legal character of the fixed fees that energy suppliers charge for a full supply year when the customer prematurely terminates their energy contract.

The Consumer Ombudsman Service had already sent a notice of default to the energy suppliers demanding to cease and desist with this market practice. According to the Federal Energy Ombudsman, the practice of charging this fees is a contravention of the electricity and natural gas law.

Given that these energy suppliers failed to respond and did not wish to renounce this market practice, a request was submitted to the Commercial Court of Brussels in order to seek a collective settlement for the customers that were misled.

The disputed market practice concerns fixed fees for certain types of contracts, amounting to 60 euros or more per energy source (electricity or natural gas) for a full (initial) year of supply. This means that sometimes customers must pay over 100 euros when switching energy supplier.

According to the Ombudsman Service this practice is a contravention of the electricity and natural gas law stating that “*no fee whatsoever shall be charged when a residential customer or SME invokes the right to terminate their energy contract*”.

The Federal Energy Ombudsman has already received over 300 complaints from customers affected by this practice and has sent over 100 recommendations to energy companies, inviting them to abide by the law. The recommendations have generally not been followed by the energy suppliers concerned.

At the same time, the competent Minister for Consumer Affairs, Mr Kris Peeters signed an agreement with the energy providers authorising them to charge a fixed fee for the first full supply year even when the customer terminates their contract before the end of it. During the second contract year, they could only charge this fixed fee as a partial lump-sum and/or partially pro rata temporis. However, the Energy Ombudsman continues to question the 'legality' of this market practice.

It is for this reason that the Consumer Ombudsman Service, at the request of the Federal Energy Ombudsman, has submitted a group litigation order or collective redress order before the Brussels Commercial Court.

According to Belgian law, the Consumer Ombudsman Service may act as a group representative of consumers against a possible infringement of the electricity and natural gas law in cases where a collective action is deemed more effective than an individual action by a single consumer.

It should however be kept in mind that such an action can only be initiated to seek a collective settlement, without leading to a decision on the substance or to the payment of a financial compensation to the consumers concerned.

Proceedings on the substance may only be introduced by a (consumer) organisation recognized for this purpose. When a collective settlement is not possible, the consumers that suffered from this misleading practice should therefore rely upon a recognised (consumer) organisation which wishes to initiate proceedings on the substance of the case.

This is the first time that the Consumer Ombudsman Service has launched such an action for the purpose of reaching a collective settlement.

In this way, the Federal Energy Ombudsman hopes to put an end to the disputed market practice, even if it is provided in the consumer agreement between the Minister and the energy providers. After all, this practice once more represents a financial threshold for consumers wishing to change energy supplier before the end of their contract. The number of consumers concerned is cautiously estimated at over 40,000 and the total financial compensation of the collective redress at more than 1,000,000 euros per year.