

# THE ENERGY CLAIMS UPDATE

WELCOME FROM THE BC LEGAL ENERGY TEAM

## BUSINESS WINS UK'S FIRST ENERGY COMMISSION CLAIM AGAINST ENERGY SUPPLIER

A small amusement arcade based in Bishop Auckland, Durham, and represented by BC Legal's energy team, is the **UK's first business to win an energy commission claim at trial against an energy supplier.**

The business, operating as "Queenie's Casino Slots", had used 2 energy brokers, Utilitywise Plc and Ideal Energy Ltd, to enter into 5 electricity contracts with the energy supplier, Engie Power Ltd, between 2016 and 2023.

The energy brokers told Queenie's that they would act in its best interests to search the energy market to get it the best energy deals and save it money. The brokers led Queenie's to believe that fees for its services would be met by commission paid by the energy supplier which was successful in obtaining Queenie's business. Queenie's thought that using the brokers would therefore cost it nothing and relied on the brokers to act in its best interests.

Unknown to Queenie's, the brokers already had secret commercial arrangements in place with Engie Power under which commissions for new business had been agreed, but were then hidden and added back into Queenie's (and other customers') energy costs.

The brokers were not acting in Queenie's best interests but had added over £12,000 to its energy costs over some 8 years.

The Court has ordered that the energy supplier now repay the energy commission money that Queenie's funded through its inflated energy bills.

Issues around these sorts of hidden commission arrangements between energy brokers and energy markets have concerned the UK energy Regulator, Ofgem, for about 15 years. In October 2022, it finally introduced a new rule that energy suppliers must provide microbusinesses' with written disclosure of the total cost of energy brokers prior to entering into energy contracts, via its Principal Terms.<sup>2</sup> It is now looking to extend this protection for all businesses.

There are around 5.6 million private sector businesses trading in the UK (98% of which are "small businesses"<sup>3</sup>) and it is expected that two-thirds have at some time used an energy broker to secure energy deals. What happened to Queenie's Casino Slots was probably not an isolated occurrence. These hidden commission arrangements were likely widespread across the energy market. Energy brokers also targeted thousands of charities, sports and social clubs and places of worship.

Whilst this first successful claim does not necessarily open the doors (yet) to large scale litigation against energy suppliers, it does highlight a very serious and long-standing consumer issue within the UK's non-domestic retail energy market.

If you have used an energy broker in the past for your energy supplies and were told, or led to believe, or assumed that costs for their services would be paid by the energy supplier and crucially not by you, then it is worthwhile seeking expert legal advice.

1 Defined as having fewer than 10 employees; or annual turnover of less than €2 million; or uses no more than 100,000 kWh of electricity per-year; or uses no more than 293,000 kWh of gas per-year.

2 Third Party Intermediaries: what your microbusiness needs to know | Ofgem – note reference to SLC 7A.10C.2.

3 Defined as having 0-49 employees.

4 Business population estimates for the UK and regions 2023: statistical release – GOV.UK (www.gov.uk).

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