



Determination 60 – May 2007

This is a determination of the Energy & Water Ombudsman NSW under Clause 6 of the Constitution of the Energy & Water Ombudsman NSW scheme.

Introduction

This determination relates to a claim from a customer for compensation for \$1213 for damage to a chest freezer, to a cordless phone with answering machine unit and for food loss – Ms S.

By way of introduction I wish to note that during its nine years of operation, EWON has dealt with a large number of complaints from customers in relation to claims for damage. Overall, this has proved to be a complex and difficult area.

There appears to be no certainty for electricity suppliers or customers in relation to responsibility/liability for damage caused by electricity incidents. Although NSW electricity providers generally incorporate into their customer contracts a position of no responsibility/liability for damage caused by electricity incidents, in practice they pay many claims by customers on an ex gratia, without prejudice basis.

Electricity providers have adopted different approaches to customer claims so that there is no consistency in response across NSW utilities.

It appears that insurance companies are increasingly excluding ‘electrical’ incidents from their coverage, and directing policy holders back to their electricity provider for redress.

As a result of these factors, the position regarding claims for customers is not clear.

It is worth noting that the Essential Services Commission of Victoria has issued a guideline about compensation of customers. This guideline has had the effect of significantly reducing the need for the Energy & Water Ombudsman (Victoria) to be involved in customer claims for compensation.

In my view there does not appear to be any sound reason for an inconsistent approach by electricity providers in NSW to customer claims for damage. We cannot see any competitive advantage to a different approach by companies, and it does not seem equitable for customers to be treated differently in relation to claims depending on the distribution area in which they live. We have called for discussion of these issues by relevant stakeholders, including electricity distributors, regulatory bodies, and consumer groups.

In the absence of any clear guidelines for customer claims in NSW, it has been left to my office to investigate claims that have been denied by distributors. My determination in individual matters does not create any precedent, but simply reflects an attempt to resolve each case in relation to its individual circumstances.

I believe that the development of standards for claims in NSW will benefit customers, their electricity providers, and the general community.

The Complaint

Ms S submitted a *Network Investigation Request – Relating to Property or Equipment Damage or Loss* form dated 14 February 2006 to her electricity provider following an interruption to the electricity supply to her home on 13 February 2006. Ms S claimed for a total amount of \$1215 after her chest freezer and cordless phone with answering machine facility sustained damage and she had to discard the contents of her freezer.

In her *Network Investigation Request* claim form, Ms S stated that a blackout occurred “early AM Monday 13 February 2006” and that she had “left for work early and noticed power had been out”. She further stated that:

“Got home Monday night and found phone answering system didn’t work. Then went to get something from freezer and found all food defrosted and freezer not working.”

Ms S claimed \$299 for her damaged Uniden cordless phone with twin headset and answering machine facility; \$599 for her damaged Westinghouse Tucker Box Chest freezer and \$315 for spoiled food. Ms S itemised the specific kinds of food in the freezer that had to be discarded and provided a cost inventory with her claim. The total amount of the components of the claim is \$1213 (not \$1215, as specified on the claim form). This amount represented the expected cost of replacing the cordless phone/answering machine unit, the damaged freezer and the food that was lost after the freezer failed to operate when supply was restored.

The provider first wrote to Ms S on 17 February 2006 acknowledging receipt of her claim for compensation and advising that this was being investigated. On 3 March 2006, the provider wrote to Ms S again, confirming that their investigation had established that there was an unplanned interruption to the supply to her premises on 13 February 2006. However, the provider declined to accept the claim on the basis that the supply interruption resulted from the successful operation of network protection equipment.

Ms S contacted EWON on 6 March 2006 after receiving her provider's letter dated 3 March 2006 denying her claim. She requested that EWON independently review her claim and agreed to forward further information.

On 27 March 2006, Ms S faxed a copy of her provider's claim denial letter and a report on company letterhead from a licensed electrical contractor confirming that he had inspected the freezer and, in his assessment, this was not repairable. In her subsequent discussions with EWON on 5, 7 and 11 April 2006, Ms S advised that her phone system was approximately six years old and that she was reluctant to pay the \$60 and \$70 quoted to her by the repairers she had contacted for a repair report, especially as the unit would need to be "sent away" and there was no guarantee that this could, in fact, be economically repaired. She informed EWON that the phone was still operating but the answering machine function, on which she heavily depended for her developing home-based catering business, was no longer operable. She also confirmed that both the chest freezer and the phone system were in excellent working order prior to the confirmed outage on 13 February 2006.

Ms S also informed EWON on 11 April 2006 that the loss of her freezer was "a catastrophe" as she did not have money immediately available to replace this and she was struggling to establish her new business initiative. She also advised that while the spoiled food component of her claim for \$315 was lodged in good faith, she was prepared to forego this if her provider would consider compensating her for a replacement freezer and phone system. EWON informed the provider of Ms S's proposed basis for resolution in foregoing the food loss component of the claim. In response, the provider advised EWON on 27 April 2006 that they stood by their decision to deny the claim. The provider noted that the circumstances of the supply interruption did not meet the criteria outlined in their *Claims Handling Policy* for a voluntary ex gratia customer service payment.

On 22 May 2006, Ms S informed EWON that she had replaced her freezer and had purchased a new phone system to replace her damaged unit. Ms S subsequently advised EWON on 4 December 2006 that, due to the longstanding nature of her complaint, she was prepared to again vary the amount of compensation she was seeking in the interests of resolution. She indicated that if her provider were prepared to offer her \$599 for her damaged freezer, this would resolve her complaint.

Ms S informed EWON several times during our investigation that she considered it reasonable for her provider to provide a complete explanation of the circumstances of the supply interruption to her home on 13 February 2006, which she considers caused her damaged equipment and associated food loss. She noted that if her provider does not have a complete record of the incident that impacted the supply to her home on that date, it seemed unreasonable for them to maintain that they had no responsibility for the losses she sustained. In discussion with EWON on 3 November 2006, Ms S advised that prior to the incident on 13 February 2006, she had experienced at least two other supply interruptions and had contacted her provider for information about the anticipated restoration time when these outages occurred. She noted that on at least one occasion, the provider informed her that there was a supply problem in the same road where the company's field crew attended the fallen mains on 13 February 2006. She stated that this informed her request for a complete explanation of the incident that impacted her supply on 13 February 2006.

The provider's response

In their claim determination letter dated 3 March 2006, the provider informed Ms S that:

“[The company] has investigated the circumstances underlying your claim. Our records show that you experienced an unplanned interruption to your power supply on 13 February 2006. Unfortunately, this can happen from time to time and is a controlled operation that protects the supply network.

[The company] endeavours to minimise interruptions where they occur and to limit their impact on homes and businesses. However, it is not possible for us to provide a continuous and perfect network through which electricity can be supplied.”

The provider also stated that they do not accept liability for the coincidental failure of equipment or food spoilage in these circumstances and suggested to Ms S that she might wish to contact her insurer.

In their *EWON Network Investigation Report* dated 30 March 2006, the provider confirmed that Ms S is supplied electricity via Distribution Substation [number] and the high voltage (11000V) line (or feeder) out of [the local] Zone Substation. The Report also indicates that the provider had reviewed their system analysis records and identified “*an 11kV protection operation on feeder [number] at the Zone Substation caused by a section of O/H mains down in [the area]*”. The provider's report stated that this incident was logged at 0022 hours on 13 February 2006 and that this event affected 34 Distribution Substations. Supply was restored at 0135 hours. The provider noted that given the density of properties in the affected area, approximately 680 customers were directly affected by the supply variation. However, the provider had received only one claim (from Ms S) in relation to this confirmed event.

In their *EWON Network Investigation Report*, the provider also noted that field operators had attended the incident involving the fallen high voltage mains. The provider stated that:

“Field operators attended and assessed the cause of the protection operation. The faulty section of O/H mains was isolated and supply to most customers was restored by network switching”.

The provider included a copy of a network document – an *Occurrence Overview* – with their *EWON Network Investigation Report* dated 30 March 2006. This document stated that:

“11kV OH down at USL [number] in [area]”.

The *Occurrence Overview* provided to EWON also indicated that supply to affected customers was restored between 1.29am and 4.55am on 13 February 2006.

The provider also provided a copy of their network diagram showing the network arrangements involving [feeder number], the customer's distribution substation (#number) and the network reference point cited for the location of the fallen high voltage conductor – that is, at underslung link (USL) [number].

As the provider had not initially provided EWON with a copy of their high voltage interruption report for this incident – (that is, their *Fault, Outage and Damage* (FOD) Report for 13 February 2006) – on 23 June 2006 we requested that they provide this primary data to facilitate our independent review.

In their response on 30 June 2006, the provider advised EWON that they had already provided “the network outage data (i.e. Occurrence Overview) for this event that was used in the investigation of the customer's claim.” The provider also advised that:

“The cause of the fallen overhead mains was not determined however there is no information to suggest that any maintainable component failed”.

At EWON's further request, the provider subsequently provided a copy of their *FOD* Report - *High Voltage Interruption Report* (#number) – to EWON on 15 August 2006. This primary record included the System Operator's remarks that Panel [number] at the Zone Substation had tripped on 'A' phase and that:

“11kV OH Mains down USL [number].
Abnormal switching
AB[number] Open & Defective
“SW/B” N/Open point closed at [number]”

The *FOD* report confirmed that the supply to the Distribution Substation (#number) supplying Ms S's premises was interrupted for 73 minutes at 1.35am on Monday 13 February 2006. This report also indicated that the weather had been mild on that evening and that supply on two high voltage feeders out of the Zone Substation – [numbers] - was interrupted at 0:22 hours on 13 February 2006.

In response to EWON's request for further information that might clarify the technical circumstances of the fallen mains, the provider advised EWON on 15 August 2006 that:

“only one span of the overhead mains was affected. There is no evidence to suggest that the cable was broken, that any bonds were broken or that third party actions contributed to the fallen mains”

and,

“Reinstallation of the cable and restoration of supply was carried out in accordance with The provider's normal work practices and procedures.”

The provider reiterated that there is “no information to suggest that any maintainable component failed.”

The provider also informed EWON that the officers who had attended the incident on 13 February 2006 and reinstated the mains, could provide no further information that

might clarify why the span of 11kV mains failed. The provider indicated that they “could not speculate” on the cause of this incident or give additional information to that already provided to EWON in their reports dated 30 March 2006 and 30 June 2006.

EWON wrote to the provider on 17 August 2006 noting that:

“[Ms S] has made several recent contacts with EWON and considers that her provider must provide a full explanation to EWON as to why they are not accepting her claim. The customer's view is underpinned by her understanding that if an 11kV conductor came down, then the provider is responsible for this occurring, not just for rectifying the situation.

The provision of the field report documenting the repair work to the network in addition to the FOD report will be helpful to EWON in providing a response to the customer. EWON is aware that overhead mains can fail for various reasons, including third party impact, inclement weather conditions and due to the failure of a bond/joint, that was not detectable via routine line inspection. The field report (as previously requested on 28 March 2006 by EWON) will enable us to independently review all relevant records and progress this investigation.”

The provider informed EWON on 21 August 2006 that there was no field report completed for this incident. On 31 August 2006, the provider reiterated that:

“[the company] can only respond to your current question with the statement that - despite our best efforts to do so [the company] has been unable to identify the specific cause of the mains failure in this case, it is for this reason that the cause has been recorded on both the FoDs report and the Occurrence Overview Report as undetermined.”

On 12 September 2006, the provider advised EWON that it was often the case with fallen mains that the cause of the failure is not apparent. While the field crew would have completed a time sheet logging where they repaired the fallen mains and the times they arrived and departed, this would not include information to explain what caused the mains to fail. The provider further stated that the priority for their field crew in these situations is to restore supply quickly and in accordance with [the company's] standard procedures. In addition, in an email dated 13 September 2006, the provider stated that:

“prior to reaching this customer's premises any surge generated at the fault site would have travelled along over 1.1km of high voltage cable past a number of distribution substations, it would then have then passed through a high voltage to low voltage transformation at the distribution substation servicing 50+ premises including this customer's, travelling a further 250+ metres along the low voltage network, past other customers, before reaching the service line to this location which then services a number of individual customers”.

On 26 October 2006, EWON wrote to the provider requesting that they review their decision to deny the claim given that EWON had shared [the company's] information about the "faulty section of overhead mains" with Ms S, who had requested a complete explanation as to why the provider “was not accountable for the network incident which

occurred.” We also noted that Ms S had emphasized in her discussions with EWON that she found it very difficult to accept that the provider had incomplete information regarding this incident. We advised that Ms S had indicated that in circumstances involving fallen high voltage mains, she believed that there is a high level of danger to the public, and considered that the provider “must have a company requirement that full details are recorded for such incidents.” Furthermore, we noted that Ms S was adamant that if there is no such report available, then the provider did not have sufficient information available to form a reasonable basis for denying her claim.

In response, the provider stated in their letter to EWON dated 19 October 2006, that:

“[the company] endeavours to identify the cause of every loss of supply incident on the network however it is not possible to do so in every instance. In this matter, the network 11kV overhead mains came down and this resulted in a protection operation. [the company] considers the protection equipment to have operated appropriately and does not believe that the protection operation resulted in a voltage excursion that would have caused damage to a customer’s appliance.”

The provider reiterated that it would be unreasonable to hypothesise as to possible causes “where the cause of the event has not been identified at the time of site inspection.”

The provider also noted that Ms S resided at a multi-dwelling supply address, but was the only customer to lodge a claim in respect of the supply interruption on 13 February 2006. According to the provider, this information in addition to the fact that approximately 680 customers were impacted by the supply interruption, “circumstantially supported” their position that the operation of network protection equipment does not result in damage to customer’s appliances. The provider also highlighted that Ms S had provided a report from a licensed electrician rather than a refrigeration mechanic or repairer regarding her damaged freezer and that this report “provides no specific information in relation to the physical damage to the freezer or the likely cause of that damage”. In addition, the freezer and phone unit that Ms S had reported as having sustained damage “would appear to be inconsistent with each other in relation to their type and behaviour when affected by network events.”

Despite the information noted above, the provider informed EWON in their *Investigation Report* forwarded on 27 December 2006 that Ms S’s claim was not determined on a technical basis. Rather, the provider advised that:

"This claim has been determined in accordance with both the Claims Management Policy and the appropriate Standard Form Customer Connection Contract under which the customer’s premises are connected to the network...

The circumstances of this supply event do not meet the specified criteria under which an ex gratia offer of settlement might be made under the Claims Policy."

Furthermore, the provider also referred to the fact that Ms S's damaged equipment and food loss related to the operation of her home-based catering business and emphasised that:

“The failed equipment was utilised for business purposes and the resultant food spoilage was a business stock loss. As the customer has indicated she is running a business from the premises it is considered appropriate that she take reasonable steps to mitigate any impact on her business arising from an interruption to her electricity supply.”

EWON's Investigation

In the course of our investigation of this matter we considered in detail the information provided by the provider, Ms S and the licensed electrical contractor who inspected her freezer. We also contacted the freezer manufacturer who informed us that the model number stated on Ms S's *Claim Form* indicated that her freezer was approximately two years old.

We also requested professional advice from an independent electrical engineer regarding the circumstances in which an overhead conductor might come down and the provider's advice to EWON that the fallen span of 11kV conductor involved a minor repair situation. We also sought the engineer's professional opinion as to what might be considered an appropriate standard of record keeping by a Distribution Network Service Provider in relation to such an incident.

Our investigation confirmed with the Bureau of Meteorology that there were no adverse weather conditions - no reports of strong winds, storm or hail activity - in the broader Region on either 12 or 13 February 2006 that might have contributed to the failure of the mains.

Inspection of the damaged freezer

On 28 September 2006, EWON spoke with the licensed electrical contractor who inspected Ms S's damaged freezer. Ms S subsequently informed EWON that the electrical contractor was an acquaintance of her father. The electrical contractor confirmed that he had been happy to provide his report on the company letterhead for his firm following his inspection of Ms S's freezer on 8 March 2006. His report stated that the freezer was not repairable following a power interruption.

The electrical contractor also advised EWON that Ms S had informed him that when the power supply to her home was restored on 13 February 2006 her freezer and the phone/answering machine had stopped working. He stated that he had inspected the freezer, noted that this appliance had a very strong burnt smell and that he had concluded that the compressor had shorted out as a result of a spike in the power.

Independent Technical Advice

EWON commissioned independent advice from a qualified and experienced independent electrical engineer about the technical considerations relating to this complaint. We also sought his professional comment on appropriate standards of record

keeping for incidents involving failed network assets such as that which interrupted Ms S's supply on 13 February 2006.

The independent engineer advised EWON that it is not satisfactory for a Distribution Network Service Provider (DNSP) to infer that a fallen HV conductor is a "minor" occurrence. Rather, he noted that:

“The matter of a conductor falling to the ground and causing a network protection operation is a serious event. The provider has an obligation to keep a record of such events and to incorporate the consequences of such an outage into their reliability reporting regime.”

He also stated that:

“for an incident such as a fallen conductor there should certainly be a log/report of the cause/effect. Not only would it be logged by the operator - but also then recorded in the fault reporting system.”

Furthermore, the absence of any formal record or diarised notation from the attending field staff as to what actually failed does not represent good industry practice. The engineer noted that “it is not clear from the available information if the fallen conductor initiated the protection equipment or if the protection equipment operated as a result of a fault on the feeder and the conductor failed as a result of this”. Rather, he stated that:

“a conductor does not fall to the ground without a reason. Assuming that the sequence of events was that the conductor fell to the ground and then the protection operated, a whole range of scenarios could have arisen. Depending on the conditions, the conductor could have been on the ground for a considerable time before any protection actually operated.”

In regard to an appropriate standard of record-keeping for such an incident, the engineer commented that, “as a minimum”, the attending the provider field staff could have noted the reason for the failure of the conductor and made a record of whether:

- a) the conductor failed due to corrosion of the conductor itself
- b) the connector holding the conductor failed or was corroded
- c) the conductor appeared to have been broken by mechanical force (tree falling onto mains or car hitting pole, or car/truck
- d) the conductor/connector had overheated due a bad connection and/or overload
- e) an insulator or cross-arm had broken causing the conductor to fall
- f) the conductor was inadequately sized to cope with the fault current.”

He advised that while these possible reasons for the failure of the conductor are “all simple observations that the field staff can undertake and record”, the provider might not have “a procedure in place to link field logs with their formal records” so that “if the field staff have not made a diary note, it is likely that the data is not able to be retrieved.”

Analysis

EWON's review of the available information has confirmed that the provider's high voltage network records for 13 February 2006 state that supply to Ms S's premises was interrupted when network protection equipment operated after an 11kV conductor fell. There is no dispute that the provider appears to have restored supply in a timely manner to the 1500 customers (approximately) who were impacted by this incident. However, as there is no primary record available to confirm what caused the 11kV mains to fall, the provider has been unable to address Ms S's request for a complete explanation of the circumstances that led to the interruption to her supply, to which she has attributed her equipment damage and food loss.

EWON acknowledges the provider's advice that it seems inappropriate for them to speculate on the circumstances regarding the failure of the fallen span of 11kV mains given that their field staff apparently did not make this assessment at the time they attended the incident on 13 February 2007. Indeed, EWON's independent engineer has noted that while DNSPs system operation records can capture high-level statistical data for their regulatory reporting regime, "the details of cause and effect [of specific network incidents] are not always properly investigated and reported." Nevertheless, the provider has not responded to EWON's independent engineer's observations.

EWON made a number of attempts to obtain further information from the provider about the cause of the fallen conductor, as we considered that this additional information was relevant and necessary to respond to Ms S's complaint that if there was a faulty overhead conductor this was the provider's responsibility. However, it appears that the provider does not have any further information about this event. Although the provider has not provided EWON with a copy of their record of their follow-up discussion with the field staff who repaired the failed section of overhead mains as requested, the provider did provide the following information in their *EWON Investigation Report* dated 6 December 2006, which was forwarded to EWON on 27 December 2006:

"The provider's network records and subsequent reports to EWON advise that the cause of the mains down was not determined.

Enquiries with Field Services could not locate any staff who could recollect the details of what is considered to be a minor repair job in February 2006."

The provider has advised EWON that their "field operators attended and assessed the cause of the protection operation", which they stated was the fallen overhead conductor. They also confirmed that there is no information suggesting that the conductor fell due to the failure of any maintainable component. Similarly, there is no information "to suggest that the cable was broken, that any bonds were broken or that third party actions contributed to the fallen mains." However, in their *EWON Investigation Report* dated 6 December 2006 – (forwarded to EWON on 27 December 2006) - the provider confirmed that the rectification work entailed replacing one span of mains:

“The recovery of the event was achieved by replacing the fallen span. This is normally the case as the tension required makes it impractical in most cases to use the span that has fallen.”

As the provider has advised EWON that there is no contemporaneous field report on this incident, it appears that the observation above reflects the standard rectification procedure when an overhead conductor fails.

For her part, Ms S has consistently maintained that as the failed assets were the provider's responsibility, it seems reasonable for the provider to be able to explain not just what happened but why the conductor fell if there is to be a justifiable basis for the denial of her claim. She has noted that as the provider does not have full details of what occurred, it seems unreasonable for the company to maintain that they have no responsibility for her loss. As someone lacking technical qualifications and an understanding of the operation of electricity networks, Ms S has also indicated that it seems most unlikely that technically trained field officers could attend and assess the situation, and make no record as to why this high voltage conductor came down.

EWON acknowledges that network assets can fail for a variety of reasons and that the routine visual inspection of overhead lines and other assets cannot guarantee that any inherent or developing weakness in bonds or joints or fatigue in conductors themselves, will always be identified. EWON also acknowledges that the provider's system operation report (*FOD Report*) identifies the time, date and reason for the outage; that the majority of the affected customers had supply restored via network switching; and that the repairs to the network seem to have been carried out in a very timely manner.

However, EWON's investigation has established that the circumstances of this matter highlight issues relating to standards of network record keeping. EWON's independent engineer has addressed this issue in some detail. In particular he has noted that:

"Every incident on the system is recorded and logged into the fault statistics files. This is subsequent to the logs taken by the system operator. However the issue of detailed data that can be properly investigated is problematical [and] if the attending field staff did not make a diary entry, then it is likely that the data is not able to be retrieved."

This information suggests there is some agreement between the independent engineer and the provider regarding their advice to EWON on 19 October 2006 that "where the cause of the event has not been identified at the time of site inspection, it would be unreasonable for [the company] to hypothesise as to possible causes". In the course of EWON's investigation, the provider has not commented on their policy requirements for recording more detailed information regarding the underlying cause(s) of the failure of their network assets. Indeed, EWON's independent engineer has highlighted that there appears to be a lack of consistency in industry practice regarding standards of record keeping beyond those that are required for regulatory statistical reporting purposes:

"Some utilities place a strong emphasis on "root cause analysis" in order to strengthen network performance. Other organizations satisfy network

performance statistical reporting requirements but are not driven to forensically examine faults on the system with a view to improving performance."

The provider has advised EWON that the network incident that interrupted Ms S's supply on 13 February 2006 was "a minor repair" event. As previously noted, EWON's independent engineer disputes any inference that a fallen high voltage conductor is a minor or insignificant incident; rather, he has emphasized that an 11kV conductor coming down "is a serious event." In these circumstances he suggests that best practice mandates that attending field staff should record the specific cause(s) for the failure of the conductor "as a minimum." This seems indisputable both for safety reasons and for the impact on customers' supply.

While a DNSP may make a commercial decision not to keep more detailed records of the specific or underlying causes of failures of network assets (where it is possible to determine this information), it seems reasonable to highlight the significance of the absence of this information, particularly when a provider advises a customer - (as the provider has advised Ms S) - that the circumstances underpinning her claim have been investigated.

The provider has stated that Ms S's claim has not been denied "on a technical basis." Following his review of the available information, EWON's independent engineer has noted that the technical considerations related to this network event are not conclusive:

"Assuming that the sequence of events was that the conductor fell to the ground and then the protection operated, a whole range of scenarios could have arisen. Depending on the conditions, the conductor could have been on the ground for a considerable time before any protection actually operated."

This allows the possibility that the damage to Ms S's freezer and phone system was consistent with the nature of the network incident, despite the provider's expressed concern that the damage to this equipment "would appear to be inconsistent with each other in relation to their type and behaviour when affected by network events." For example, it is feasible that there might have been an intermittent or sustained open circuit on the relevant phase of the faulty circuit prior to the operation of the network protection equipment. However, EWON is unable to comment further on the technical considerations in this matter without an additional report on the network incident and the strength of the nexus with the claimed equipment damage. Given that the provider has confirmed there is no further information available that would clarify all the circumstances relating to the network event on 13 February 2006, and the fact that the provider has not commented to date on EWON's provision of the independent engineer's professional advice, EWON has not commissioned this additional expert report. Rather, for the reasons outlined in this Determination EWON considers that there is merit in resolving this complaint on the basis that Ms S has proposed.

Ms S has confirmed with EWON that she would accept an ex gratia offer of compensation of \$599 for the damage to her freezer as full and final settlement of her claim. She has confirmed with EWON that she has receipts for her purchases of the replacement phone system and for the food that she discarded after she discovered her freezer was not working. However, while she considers she has a legitimate basis for compensation for these components of her claim, she has consistently stated over

several months that as she would like to bring this matter to closure she would accept compensation for her damaged freezer as a satisfactory resolution to her complaint. For this reason and in light of the other factors reviewed in this Determination, this seems to be a reasonable basis for a negotiated settlement of this matter.

Conclusion

Given the absence of complete information in the provider's records about the circumstances of the supply interruption to Ms S's premises on 13 February 2006, EWON is not in a position to comment further on the technical merit of this claim. However, in a situation where there is credible information available to indicate that industry best practice points to additional information about the circumstances of a network incident involving the falling of an 11kV conductor being recorded, I believe it is reasonable for the benefit of any doubt regarding the claim to go to the customer.

Under the provision of Clause 6 of the *Constitution of the Energy & Water Ombudsman NSW* scheme I therefore determine that the provider should pay the sum of \$599 to Ms S as full settlement of this matter.

Under the EWON Constitution, this decision is binding on the provider. Ms S may elect within twenty-one days whether or not to accept this decision. If Ms S accepts the decision, she will fully release the provider from all claims, actions etc in relation to this matter. In the even that Ms S does not accept my decision, she may pursue remedies in any other forum she may choose, and the provider is then fully released from my decision.

Clare Petre
Energy & Water Ombudsman NSW
21 May 2007