



Energy & Water
Ombudsman NSW

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

Introduction

The determination relates to a claim from a customer for compensation for damage to a domestic appliance – Mr B.

By way of introduction I wish to note that during its six 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 which 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

Mr B lodged a claim for compensation for damage to his dishwasher following an interruption to the electricity supply to his home.

Mr B advised that there was a total power failure on 13 February 2003 which lasted approximately four hours. The dishwasher had been on at the time of the interruption. When the power was restored, the dishwasher was making a continuous buzzing noise, so he turned it off at the power point. Mr B contacted a repairer from Email who came out to examine the dishwasher. The repairer advised that the part required to repair the dishwasher was no longer available and Mr B subsequently purchased a replacement dishwasher.

Mr B later lodged a claim with his electricity supplier on 28 March 2003 for the amount of \$1090 to cover the repairer's costs of \$75 and the cost of the replacement dishwasher.

The supplier wrote to Mr B on 8 April 2003 and declined to pay the claim on the basis that while they confirm there was an interruption to the electricity supply, there were no surges or over-voltages associated with this interruption and in such circumstances it is not their policy to make offers of compensation. Mr B contacted EWON on 10 December 2003 asking for a review of the decision (Mr B noted that he had been unable to follow this matter up earlier due to personal circumstances).

The Supplier's Response

It is not disputed by the supplier that the first interruption to supply was caused by the actions of their staff when they damaged 33kV cables supplying the Zone Substation. However the company stands by the denial of the claim on the basis of clause 16.4 of their *Standard Form Customer Connection Contract*.

In their Investigation Report to EWON dated 30 December 2003 the company advised that the cause of the first interruption was "*a fault on two underground cables as a result of being damaged by a hole borer..*".

During the course of EWON's investigation the company confirmed the following:

There was a protection operation at 3.03pm on 13 February 2003, which tripped 33kV feeders from a 132kV Sub to Zone Substation.

