



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**

Mr A lodged a claim with his electricity provider on 10 July 2003 for the repair cost of \$3473.80 for damage to two air conditioning units following an interruption to the electricity supply to his property at approximately 9.30am on Thursday 3 July 2003. Mr A says he rang his supplier to report this supply problem. In his claim form he noted that he was without power for approximately 90 minutes and further advised that there was a *“power failure in area which caused air conditioning units to break down [due to] electrical fusion of compressor units which were running at time of power failure”*. The repair report dated 5 July 2003 which Mr A provided with his claim form stated that the *“damage due to power failure which occurred on Thursday 3 July 2003”*. The repairer reported that he found the air conditioning system for levels 2 and 3 of the property *“down to earth”* and the *“compressors for both systems down to earth due to electrical fusion”*. This repairer also noted that the compressors and contactors needed replacing; that liquid line drivers would need to be installed; and that both air conditioning systems would have to be recommissioned.

Following his receipt of a letter dated 19 August 2003 denying his claim, Mr A contacted his supplier and requested a review of this decision. The supplier subsequently informed him that their further review did not identify any record of supply variation for his Distribution Substation outside their supply standards. Although the supplier had no record of a network incident affecting Mr A’s supply, the company included a brochure with their letter providing information about the steps customers may choose to take to protect their three-phase equipment from damage. In response, Mr A wrote to his supplier on 22 October 2003 emphasising that the provision of the brochure was *“somewhat late”* and that the company had failed to advise him previously<sup>1</sup> that [three-phase] equipment *“is subject to damage unless protective devices are installed to mitigate the effects of power failures.”*

Mr A wrote to EWON on 20 October 2003 to request a review of the reasonableness of his supplier’s decision to deny his claim. In his letter, he advised that his air conditioning systems had previously sustained damage as a result of a power failure in 2002. He noted that the claim he lodged with his supplier in respect of the 2002 incident was also declined and he had *“accepted this, believing they [the company] had no liability”*. In regard to the supply incident on 3 July 2003 that underpinned his current claim, he advised that *“the entire area had a power failure for 3 hours or so”* on this date and that:

*“Buildings had computer damage. Street lights were out. Police directed traffic at the intersection of [names withheld by EWON] Streets. As a consequence, tenants of our*

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<sup>1</sup> Mr A had previously lodged a claim for compensation when his air conditioners were damaged during a low voltage supply incident in 2002.

*building had damage to computers and the building suffered damage to 2 air conditioning systems”.*

Mr A’s letter further advised EWON that when he contacted his supplier he was “*told of the power failure and to put in a claim*”. He emphasised that when he contacted the company after his claim was declined, they had denied there had been a power failure. He noted also that he believed the damage to his two air conditioning units “*was caused by the surge in power when the power was restored*”. He also advised that he had installed phase-fail protection equipment following his receipt of the supplier’s letter dated 15 October 2003 advising him of its availability. He reiterated his concern that this information could reasonably have been provided to him by his supplier with their correspondence denying his previous claim in 2002. In a subsequent telephone discussion with EWON on 9 February 2004, Mr A emphasised that it was a matter of great concern to him that the company had repeatedly denied the interruption to his supply on 3 July 2003. He informed EWON that “*all*” of his area was affected by the outage and that “*the police were called to the area as the traffic lights were out and several streets had no supply.*”

Mr A wrote to EWON again on 16 February 2004 including two attachments, one of which was a *Statutory Declaration* dated 16 February 2004 advising that:

- he had called his supplier on 3 July 2003 to report a power failure to his premise and to request information about the cause and the anticipated time that power would be restored
- the company had informed him that “*the power was out to the area*” and that he could expect a short-term disruption with the power being restored around midday
- the company had apologised for any inconvenience
- one of his tenants occupying the ground level of his building had phoned him to complain that their lights and computers were out. Mr A recommended that he should contact the supplier to report the incident
- both sides of the street were without power up to the nearest intersection
- the company’s “*claim that power to his side of the Street was not disrupted is challenged as being incorrect... the power blackout to [my property] did occur on July 3<sup>rd</sup> from between 9am and mid-day and was concurrent with the blackout to the immediate area on that day and at that time and due to circumstances not of our control but under the management of the power supplier.*”

The other attachment was a statement co-signed by Mr A and the tenants on each of the four levels of his building confirming that the electricity supply had been interrupted from 9am to mid-day on 3 July 2003 and that this “*power failure*” had affected their lighting and computers.

In a follow-up letter on 19 February 2004 Mr A advised that he had canvassed business owners on his side of his street who, he noted, had recalled the supply interruption on 3 July 2003. His letter nominated the affected businesses and flagged that he was seeking “*a document*” from his next-door neighbour [address provided to EWON] “*to signify their*

position". On 10 March 2004 Mr A provided to EWON a copy of a letter from another business operator dated 18 February 2004 [name and contact details supplied] stating that:

*"On July 3 2003 between the approximate hours of 9am to 12.30pm, a power failure occurred in sections of [the area]. Electricity supply was disrupted to both sides of the street. As a consequence, business operators were without electricity for the period stated. As a business operator on the western side of the street power loss was experienced."*

He also advised that he had engaged a professional engineer who *"maintains that they [the supplier] can easily determine to which sub station we are connected to by putting a tracer signal on the line from the sub station to our building. We lost all 3 phases to the building, even though it is claimed that there was only a drop of one phase"*.

Mr A specifically requested that EWON confirm with the supplier which Distribution Substation *"went down"* on 3 July 2003 and the details of the Distribution Substation that the supplier *"claim we receive service from which wasn't affected."* He said in light of the power interruption that he and his tenants experienced, he required *"documented evidence that the western side of the street was unaffected and proof that the sub station we receive power from was not out of service for the period and the date we and others affected claim"*.

### **The Supplier's Response**

The supplier sent Mr A a claim form on 4 July 2003 following his telephone call on that date and wrote to him on 5 August 2003 to acknowledge receipt of the completed form. The Claim Determination letter sent to Mr A on 19 August 2003 advised that the company's investigation of the circumstances underlying his claim had established that their records for 3 July 2003 did not indicate any variation in the electricity supply to his property that did not comply with their supply standards. The supplier further advised that they do not make offers of compensation in these circumstances and suggested that Mr A might wish to refer the matter to his insurer.

Following Mr A's request for a review of their decision, the supplier wrote to him again on 15 October 2003 advising that their records *"do not disclose any variation outside our supply standards at your substation on 3 July 2003. However, the company has established that there was a loss of one phase of supply in the area on 3 July 2003 which is consistent with the outage time stated by yourself"*. The supplier also emphasised that:

- they make no guarantee of an uninterrupted supply of electricity and occasionally incidents occur on the distribution network which are beyond their reasonable or economically practical control
- three-phase equipment is susceptible to loss of phase of supply and should therefore have adequate phase-fail protection installed to isolate the supply in the event of this type of incident
- it is not the company's policy to make offers of compensation regarding this kind of equipment damage.

In their first *EWON Investigation Report* dated 8 December 2003 the supplier advised that Mr A's property is supplied via the high voltage feeder out of the area Zone Substation and via Distribution Substation [number]. This Report also confirmed that the supplier held no record of any network event "on or about" 3 July 2003 "which would have directly affected this customer's electricity supply". There were also no records of any emergency service requests "at or around this customer's address on or about the date claimed" and the company had not received claims from other customers in the area "on, or about, the date claimed". The company acknowledged that there was a "system event" on 3 July 2003 which did impact some customers in the area including those on the opposite side of Mr A's street when one phase of the low voltage distributor (#2) out of Distribution Substation [number] was interrupted. However, "there is no indication that the claimant was affected by this event."

The supplier emphasised that their claim determination was predicated on the fact that they had "no record of any event on the supply network that would have affected this customer's supply".

In their *Investigation Report* to EWON sent on 18 December 2003, the company reiterated their advice that:

- they had no record of any system event on 3 July 2003 that would have affected Mr A's supply
- there is a record of an event on 3 July 2003 that affected parts of the area including the opposite side of the street to Mr A's premise. This incident involved the loss of one phase on low voltage distributor 2 out of Distribution Substation [number]; however, "as Mr A's premise is supplied via Distributor 3 out of Distribution Substation [number], his supply was not affected by this event".

On 17 February 2004, in response to EWON's advice regarding receipt of Mr A's *Statutory Declaration* relating to the supply interruption he said he experienced on 3 July 2003, the company undertook to review the possibility of any low voltage interconnections that might have affected Mr A's supply on the claimed date and to check their records for details of any 'script' provided to their Call Centre representatives on that date. The company also noted that the failure of Mr A's air conditioning units' compressors might have resulted in the building losing power. On 1 March 2004 the company informed EWON that they had no record of Mr A's call on 3 July 2003 although the number which he advised EWON he had rung was their emergency service line. However, despite having no record of Mr A's call, the company acknowledged that he would most likely have been advised when he rang that they were already aware that there was a supply problem in the area. The company indicated that they would follow-up regarding the possibility of any supply interconnection, as any system changes are required to be logged by the System Operator.

In response to EWON's emailed enquiry on 10 March 2004 as to the possibility of any alterations to the low voltage network arrangement supplying electricity to Mr A's premise, the company's third *Investigation Report* dated 16 March 2004 emphasised that:

*"There was certainly no interconnection or 'cross supply' on the 11kV feeding the two Distribution Substations".*

The company further noted that *“information in respect of LV switching is not as easily accessed as the high voltage system records.”* The company also advised that they considered EWON’s additional questions *“may only be relevant to the matter if it is shown that LV interconnections may have been in place at the time of the interruption on Sub. [number]”*. Their Report also stated that *“as EWON believes that there was an interruption to the claimant’s installation”* it would assist the company’s *“evaluation of the circumstances”* if EWON provided *“the details of any evidence or supporting information (other than the customer’s statement) that supports this view (eg names and addresses of other customers who were affected etc)”*. The company reiterated that they stood by their denial of Mr A’s claim on the basis that there were no records of any system event on, or about, the date claimed that would have affected his supply.

The company informed EWON in an email dated 25 March 2004 that they:

*“had finally got a reply to EWON’s inquiry regarding the possibility of an interconnection between the claimant’s supply and Dist.Sub [number], which had a LV fuse operation on the claimed date. The Regional staff have confirmed that LV reticulation modifications had taken place prior to 3/7/03 which resulted in the transfer of the claimant to Distributor 2 of Dist. Sub. [number]. As a result the claimant was affected by an interruption on one phase of the LV supply for about 143 minutes”*.

The company emphasised that they do not make offers of compensation for damage to commercial three-phase equipment resulting from the loss of a phase of supply and, on this basis, their denial of the claim would be maintained *“on contract grounds”*.

On 1 April 2004, in response to EWON’s emailed request on 26 March 2003 for additional information about the LV fuse operation at Distribution Substation [# ..] and any known supply problems affecting Mr A’s area prior to the incident on 3 July 2003, the supplier confirmed that they had *“originally made a determination of the customer’s claim based on information, which has subsequently been found to have been incorrect.”* The company further advised that *“the matter is formally denied on the basis of the Customer Contract, due to circumstances beyond [the company’s] reasonable control”*. The copy of the System Operation Low Voltage Interruption Report [# ..] that was provided as an attachment to the company’s response indicated that the company had received a report of a supply problem via their Emergency Services on Thursday 3 July 2003 at 10.17am. The Report notes that a low voltage fuse had “blown” and that this had affected Distribution Substation [#..]. The cause of the operation of the fuse as noted in the Report is attributed to *“Electrical Overload”*.

In a subsequent discussion with EWON on 14 May 2004 in response to EWON’s enquiry regarding the possibility of Distribution Substation [number] being subject to overload, the company confirmed that the LV fuse had operated because the transformer was overloaded but this *“was irrelevant.”* The company also informed EWON that any alteration to the low voltage supply arrangement would usually be reported to the System Operator who would normally make a record of this however, in the circumstances of this matter, there was no record made and this was the reason why the company had experienced difficulty in establishing that there had been an alteration affecting Mr A’s supply. The company declined to respond to EWON’s further enquiries as to whether the acknowledged overload on the transformer at Distribution Substation [number] was reasonably foreseeable.

EWON informed the supplier on 13 August 2004 that independent technical advice had been commissioned to clarify the circumstances underpinning the network incident affecting supply to Mr A's property on 3 July 2003. In response, the company advised that:

- they had already acknowledged that an event involving the loss of one phase of the LV supply had occurred [that had affected Mr A's supply] and the company *"has not at any time disputed the possible relationship between the loss of one phase and the alleged damage"*
- *"there is no technical dispute in respect of the denial of the claim"*
- the company had confirmed that *"the operation of the LV fuse was determined to have been caused by an overload on Distributor 2 out of Distribution Substation [number]"*
- the company does not make settlement offers to customers in these circumstances.

On 21 March 2005 EWON provided the company with summary information regarding the conclusions of the independent technical report commissioner by EWON and the reasons underpinning these. In response, the company informed EWON on 16 May 2005 that in view of the fact that the network incident on 3 July 2003 involved *"a low voltage fuse operation of one phase that resulted in the 3 phase air conditioners in [Mr A's property] with only a two phase supply"* and *"as phase failure protection was not installed by the customer prior to the incident, the company does not accept liability in these cases, nor does it offer a customer service payment"*.

The company also informed EWON that:

- *the confusion over the point of supply to [to Mr A's property] has caused some understandable customer dissatisfaction. Our plans showed the connection to be on a separate LV feeder that was not affected and it took a field check to correct the error. There is no record or other evidence that the feeders were interconnected at the time of the incident. In fact if they had been, the confusion over the supply to [Mr A's property] would not have happened as the low voltage fuse on both feeders would have had to operate to cause an outage*
- the company disputed that information had been previously provided to EWON that they *"had any evidence that the feeders had in fact been interconnected"*
- while the company *"owes Mr A an apology and an explanation for the confusing information he has received"* the company does not agree that they should compensate Mr A for the repair costs for the damaged air conditioning units.

## **EWON's Investigation**

In the course of our investigation of this matter we considered in detail the following:

- information provided by Mr A
- information provided by the supplier

- two technical reports by an independent electrical engineer.

### **Technical Advice**

EWON obtained independent technical advice from a qualified and experienced electrical engineer regarding the circumstances underpinning the confirmed network incident that occurred on 3 July 2003 and which affected supply to Mr A's property. His report emphasises that the information provided by the supplier to facilitate the reconstruction of events on 3 July 2003 "*is extremely limited*" and that the factual information provided is insufficient "*to establish a complete and clear sequence of events and therefore clearly identify the cause of the damage to Mr A's equipment*". Notwithstanding this, the independent engineer concurred with the supplier that the loss of one phase of the electricity supply to Mr A's building on 3 July 2003 caused the damage to the two 3-phase air conditioning units. However, he emphasised that in his assessment the substantive issues that need to be addressed are:

- whether the loss of one phase of the supply was within or beyond the control of the supplier
- if it is reasonable that the supplier "*be held accountable for damage which would have been prevented by the installation (by Mr A on the professional advice of the electrician who installed the 3-phase motor(s) – who arguably had a duty to provide such advice) of phase-fail protection*".

### ***The foreseeability of the supply incident on 3 July 2003***

In reviewing the chronology of events relating to this supply incident, the independent engineer has stated that, based on the limited information available, the only points that can be made with any certainty are that at approximately 10:17 a.m. on 3 July 2003:

- *LV Distributor No. 3 ex Substation [No...] was interconnected with LV Distributor No. 2 ex Substation [No...];*
- *the fuse controlling 'B' phase of Distributor No. 2 ex Substation [No...] operated, interrupting supply to one phase of that distributor; and at the same time*
- *one phase of the supply to Mr A's premises was interrupted, the duration of the interruption being 143 minutes.*

The independent engineer also notes that in their letter to Mr A dated 15 October 2003, "*[the supplier] has, in effect, admitted that the interruption did affect Mr A's premises (by interruption of one phase of the supply)*". However, his review of the available information has not established that there was a total interruption to the supply to Mr A's premise on 3 July 2003.

In regard to the "electrical overload" specified in the company's *LV Interruption Report [#..]* dated 3 July 2003, the independent engineer makes the following observations:

- "*it is not clear why the two substations were interconnected via the two distributors, or why Distributor No. 3 ex Substation [No...] was without normal supply from [S...] (as it must have been to suffer an interruption)*









