



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**

This determination relates to a claim for compensation for repair costs to a television and the cost of renting a replacement television for twelve months – Mr J and Ms M.

By way of introduction I wish to note that during its seven 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 J made a claim to his electricity supplier on behalf of Ms M and himself following an interruption to the electricity supply to their home at approximately 3.30pm on 8 March 2004. They were at home watching a video when they observed their television “had faded out” and their lights were dimming. They then smelt a burning smell from the television and observed that it had “blacked out”. Mr J subsequently noticed that the refrigerator light “was dimmed” prior to losing all supply to their home. Mr J and Ms M also noticed that the power had gone out in the street. They checked their meter box and as this seemed to be all right they spoke with two neighbours who informed them that the lights in their homes had also dimmed prior to the blackout. Mr J rang his electricity supplier and says he was advised via a recorded message that the power would be out for several hours.

The customers informed EWON that their television was approximately six years old and had originally been purchased for \$800. They hired a replacement television on the afternoon their television was damaged as they were already under contract to Foxtel and were paying a \$40 monthly charge for this service and they did not want to be without the benefit of this. Their insurer subsequently advised them that their household contents policy did not cover damage resulting from this kind of incident.

Mr J submitted a claim form to their supplier on 20 April 2004 for the estimated repair cost of their damaged NEC television for \$287.40 and \$540 for a minimum of twelve months rental for a replacement television. Mr J informed his supplier that the hire contract was for a 24-month period however he could withdraw from this agreement after 12 months by paying \$540. He noted also that they also had the alternative of purchasing the rental television for \$999. On this basis, Mr J indicated that he considered it was reasonable for his supplier to pay compensation of either \$827.40 or \$999 as full and final settlement of the claim.

The repairer’s report accompanying the claim form notes that the fault reported by the customers on 24 March 2004 was “no power after blackout”. The repairer specified that the set required repairs to the power supply circuitry, horizontal output stages and tuner control circuitry.

The electricity supplier wrote to Mr J and Ms M on 6 May 2004 declining to pay the claim on the basis that their records did not disclose any variation in the electricity supply that did not comply with their supply standards. The company noted that in such circumstances it is not their policy to make offers of compensation.

Mr J and Ms M wrote to EWON on 6 July 2004 requesting a review of the company's decision. In their letter, they emphasised that "the 'brown out' then the black out had caused [their] television to cease working". They also expressed concern regarding their supplier's written advice to them that "their records did not disclose any variation in the electricity supply that does not comply with their standards, at that point in time" as their neighbours had also confirmed the variation in supply and the supplier's own recorded message stated that "the power would be out for several hours".

In the course of our investigation of the reasonableness of the company's decision not to accept the claim, EWON informed Mr J and Ms M that we did not consider it reasonable for the company to compensate them for the costs they have incurred in entering into a rental agreement for a replacement television.

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

In their *Investigation Report* to EWON dated 18 August 2004, the company advised that the customers are normally supplied electricity via Distribution Substation [number] and the 11000-volt feeder [number] out of the Zone Substation. The company reported that "there were no specific records of a network event on the claimed date that would have affected 11kV feeder [number] or Distribution Substation [number]". However, the company confirmed that on the claimed date there was work being carried out on the busbar at the Zone Substation that required transfer of most of the load off the Zone Substation. The company noted that:

*"A problem with the recording process at that time meant that [we] do not have details of the interconnections that were involved. However, the claimant's description of the timing of the event and Emergency Service calls from the area, [indicate] that the claimant [Substation] was connected to 11kV feeder [number] out of the Zone Substation."*

The company's records do note that at 4.45pm on 8 March 2004, the System Operator authorised the manual operation of the circuit breaker on 11kV feeder [number] at the Zone Substation in response to reports of a termination failure at Air Brake Switch [number]. The company noted that the loss of supply to the 11kV feeder resulted in the interruption to supply to over 3000 customers for an hour and a half. The company also advised that the termination failure would have caused abnormal voltage (approximately 50% of normal supply voltage) on two phases of the low voltage out of all the Distribution Substations connected to feeder [number] beyond Air Brake Switch [number] prior to the operation of the circuit breaker by the System Operator.

The company have confirmed with EWON that “it is reasonable to assume that the claimant could have been affected by this event”. However, they also emphasised in their report dated 18 August 2004 that “the interruption to supply was beyond the reasonable control of [the supplier] and was due to a manual operation of the 11kV feeder as a result of a termination failure”. They also advised they had received nine claims from customers residing in a wide area that “could have been involved in this incident”.

The company provided a further *Investigation Report* to EWON received on 16 December 2004. The company also responded to an enquiry by EWON as to whether they would reconsider acceptance of the claim for \$287.40 for the estimated cost of repair of the television given that they had fully compensated another customer in respect of a claim arising from the same event. The company advised that although “the claim was denied on contract grounds as the event was unforeseeable and therefore beyond our reasonable control”, they were prepared to offer “a partial settlement, on purely economic grounds, to assist the claimant”:

*“In this regard, [the company] is able to offer \$200.00 to finalise the matter.”*

The company withdrew this ex gratia offer when Mr J and Ms M declined this on the basis that the estimated repair cost was \$287.40.

### **Investigation by EWON**

In the course of our investigation of this matter we considered in detail the information provided by the supplier and Mr J and Ms M. We also commissioned a technical report by an experienced independent electrical engineer on the circumstances underpinning the interruption to supply and his professional advice as to any nexus between the supply incident and the nature of the damage sustained by the customers’ television.

### **Technical Advice**

EWON obtained independent technical advice from an experienced electrical engineer who acknowledged the limited information provided by the supplier regarding the events on the network on 8 March 2004, but emphasized it was “clear” that the work to carry out the switching to transfer the load temporarily to the Zone Substation was under the reasonable and practical control of the supplier.

EWON’s technical adviser noted that the supplier originally denied the existence of any disturbance in the area and advised that it had no record of any supply incident affecting this section of their network. However, during EWON’s investigation of another claim from a customer in this area in relation to the supply interruption on 8 March 2004, the supplier subsequently established that there was in fact a disturbance on their network that affected an extensive area including Mr J and Ms M’ suburb.

The supplier’s further investigation of the other customer’s claim indicated that as a result of planned works, network switching was carried out to transfer part of Feeder

[number] and a small section of Feeder [number] from the Zone Substation to Feeder [number] Zone Substation. Regarding this, the technical adviser has emphasised in his report that:

*“It is clear from the limited information provided that the work undertaken to carry out the switching to transfer the load temporarily to the Zone Substation was under the control of [the company]”.*

The report also notes that a 200A 11kV regulator (approx 3.8MVA) is used in supplying the area normally covered by the Zone Substation. The technical adviser has indicated that a regulator is installed on networks where the supply is weak and voltage drop on the 11kV network is significant, such that adequate voltage conditions cannot be maintained on the low voltage side:

*“When supplied from the Zone Substation there is no regulator supplying this area. Accordingly, depending on loading conditions, it is possible that 11kV voltage conditions may have been lower than normal. [the company] advises that a bond on an 11kV air-break-switch (ABS) failed during the period of this network configuration.”*

EWON’s technical adviser further noted that the company had not provided the exact details associated with the failure and thus it was not known whether the bond failure occurred during the switching while restoring the network to normal configuration after completion of the planned work or whether the failure occurred during the period that the Feeder [number] was carrying its normal load plus the additional load transferred from Feeder [number] [which normally supplies Mr J and Ms M’ property] out of the Zone Substation. He concluded that:

*“as a regulator is installed, it is possible that excessive currents might have occurred, if care was not taken in paralleling between [the first] Zone Substation and [the second] Zone Substation”.*

His report also emphasised that the failure of a bond on an 11kV Air Brake Switch under these conditions implies the possibility of one or more of the following factors, all of which *“are contingencies that are under the control of [the supplier]:*

*(a) a faulty connection on the ABS which was unable to carry the “first level emergency” load*

*(b) overloading of the network by transferring excessive load from [the first] Zone Substation to [the second] Zone Substation*

*(c) incorrect cross-zone switching causing abnormally high currents between the two zone substations resulting in failure of the weakest link”.*

In addition, *“the sustained and transient voltage conditions that the equipment connected to the system would have been subjected to are likely to be well outside those that equipment tested to reasonably rigorous immunity tests would be required to withstand”*. As there appears to have been a number of claims associated with the incident on 8 March 2004<sup>1</sup>, EWON’s technical adviser considers it is unlikely that this can be attributed to random failure, but rather to abnormal system voltage conditions.

A key point highlighted in the report relates to the duration of the abnormal supply conditions on the afternoon of 8 March 2004:

*“It is unknown as to how long the “brown out” conditions persisted and the extent to which voltage transients were present. However, from the information provided, the brown out condition persisted for at least 30 minutes coupled with extensive transients”*.

### **Nature of the damage to the customer’s television**

EWON’s technical adviser has indicated that the nature of the damage sustained by the customers’ television as confirmed in the repairer’s report dated 24 March 2004 is consistent with the nature of the supply conditions on the relevant section of [the company’s] network on 8 March 2004. He has also emphasised that as with all electronic equipment, “there is always a possibility of failure for some reason or other at any time”. He has also acknowledged that although, *in general*, the reliability of most conventional television sets is now quite high and the probability of their failure is relatively low, some equipment has less capability of withstanding abnormal system conditions. However, *“there is no test in the performance test requirements as set out in AS/NZS 60065:2000 that would require the television set to be able to operate for any significant period at 50% voltage”*. He has noted further that as the nature of the voltage during the brownout condition is unknown, the exact failure mechanism and mode cannot be determined. Nevertheless, he considers it is “quite possible” that:

*“if television sets were left on during the “brown out” condition, some of the television sets that were connected at the time would fail as a result of component failures within the power supply of the television. During this period, consequential failure to other components within the electronic circuitry is possible”*.

The report also gives due emphasis to the fact that the impact of “switching off” the television set as a result of a power interruption on the network “is potentially more onerous on the television than when the television is switched off utilising the local on/off switch on the television set itself”. Nevertheless, EWON’s technical adviser notes that this is a normal occurrence on the electricity system and the equipment should be able to cope with it. However, as the brown-out conditions *“were not constant but intermittent with transient conditions present and thus subjecting any connected*

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<sup>1</sup> [the company] has informed EWON that “there were nine (9) claims from a wide area that could have been involved in this event”.

*equipment to conditions arguably well beyond conditions that connected equipment would be tested to, even if effective immunity standards were in place in Australia, it is not surprising that some of the equipment connected at the time has failed and has resulted in a claim being submitted to [the company].”*

## **Analysis**

EWON’s investigation considered the information obtained from all sources listed above. The following factors were considered particularly relevant in determining that it is reasonable for [the company] to address Mr J and Ms M’ claim:

- the possible causes of the supply problems on 8 March 2004 which impacted Mr J and Ms M’ supply are contingencies which appear to have been under the reasonable control of the supplier
- in spite of the acknowledged problem with the accuracy of their recording processes on 8 March 2004, the company have informed EWON that Mr J and Ms M’ description of the timing of the event and the information from Emergency Service calls from the area indicate that Distribution Substation [number] that supplies electricity to the customers’ installation “was connected to the 11kV feeder [number] out of the Zone Substation”. The company have further informed EWON that “it is reasonable to assume” that Mr J and Mrs M’ installation “could have been affected” by the voltage variation preceding the total interruption to supply resulting from the manual operation of the circuit breaker on feeder [number] that was authorised by the System Operator at 4.45pm. EWON’s technical adviser has discussed in detail in his report the implications for customer installations of the technical circumstances affecting 11kV feeder [number] on 8 March 2004:

*“As the fault of the network was an intermittent but transient one, persisting for a relatively long time, it is arguable that the voltage conditions that were present on the network were outside of the voltages defined as being [the company’s] normal voltage conditions in [the company’s] Electricity Standard ES2, the document that is referred to in [the company’s] Customer Connection Contract”.*

- there appears to be a linkage between the failure of the customers’ television and the failure of the network. While it is not possible to state conclusively how long the ‘brown out’ conditions persisted and the extent to which voltage transients were present for customers being supplied via feeder [number], EWON’s technical adviser has discounted the random failure of the television and has emphasised that, based on the description provided by Mr J and Ms M, *“it is reasonably plausible that the failure [of their television] occurred as they had described given the voltage conditions that existed on the network.”* Furthermore, although the customers’ television should ideally have been able to withstand at least some of the conditions on the network on 8 March 2004, EWON’s technical adviser has acknowledged that the very nature of these conditions, described as *“sustained and transient voltage*

*conditions”, would be likely to be “well outside those that equipment tested to reasonably rigorous immunity tests would be required to withstand”*

- the supplier has confirmed that there were nine other claims associated with this network incident. On balance, this tends to suggest that there were supply abnormalities on the network at the time the customers’ television failed. EWON’s technical adviser has emphasised that seven of these claims were “clustered” in the vicinity of the section of the feeder normally supplied from the Zone Substation and notes that *“it is clearly more than coincidental that there were so many claims and [this] provides an indication that there were abnormalities on the network”*. Under the circumstances, it seems reasonable to conclude that Mr J and Ms M’ television was subjected to abnormal and excessive voltage conditions
- information provided by the company that their records are not able to confirm that a particular customer’s installation has or has not been subject to failures that affected significant sections of their high voltage network
- the customers’ decision to reject the company’s offer of \$200 ex gratia seems reasonable, given that the repair quotation reflects the costs of parts and labour and in consideration of the fact that this would restore the customers to their original position, with their damaged television operating as it was prior to the supply incident on 8 March 2004.

## **Conclusion**

Given the available information, EWON is not in a position to comment further on the technical aspects of the claim. However, in a situation where there is credible technical information to support Mr J and Ms M’ position, I believe it is reasonable for the benefit of any doubt to go to the customers.

Under the provision of Clause 6 of the Constitution of the Energy & Water Ombudsman NSW scheme I therefore determine that the company should pay the sum of \$350.00 to Mr J and Ms M as full settlement of their claim. This amount consists of the quoted estimated repair costs for the damaged television plus a small customer service payment acknowledging the delay that has occurred in resolving their complaint.

Under the EWON Constitution, this decision is binding on the company. Mr J and Ms M may elect within twenty-one days whether or not to accept this decision. If Mr J and Ms M accept the decision, they will fully release the company from all claims, actions, etc in relation to this complaint.



In the event that Mr J and Ms M do not accept my decision, they may pursue their remedies in any other forum they may choose, and the company is then fully released from the decision.

Clare Petre  
Energy and Water Ombudsman  
25 July 2005