



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 complaint by Mr S regarding the standard of customer service he received in making several representations to his electricity retailer about the accuracy of the billing of his former business account in the period from June 2000 to October 2002.

This Determination does not create any precedent, but simply reflects an attempt to resolve this case in relation to its individual circumstances.

The Complaint

Mr S referred a complaint to EWON on 11 July 2003 regarding the high level of billing of his business account in the period from 2 June 2000 until 10 October 2002. Mr S was an existing customer when he established a new account with his electricity supplier after relocating his business to another premise in June 2000.

When he first contacted EWON Mr S advised that his quarterly bills at his former premise [site 1] were typically around \$500. When he began receiving monthly bills ranging from \$400-\$800 at his new premise [site 2] he contacted his electricity retailer to query the accuracy of the invoicing. He rang his supplier after receiving his first bill, which was estimated on the basis of the previous tenant's consumption. Although this bill was subsequently amended he considered the amount was, comparatively, still very high. As his monthly billing remained atypically high subsequent to this he contacted his retailer several times in the following twelve months but says the company did little to assist him. Rather, his retailer advised him that his billing was accurate, that it was up to him to determine what was using any additional power and that his supply would be disconnected if he did not pay his account. In the course of EWON's investigation Mr S emphasised that he "had a legitimate complaint and they [the retailer] left me to work things out on my own".

In October 2002 Mr S relocated his business to [site 3] after electing not to renew his lease at site 2. He informed EWON that he waited to receive his first two full quarterly bills at [site 3] - (issued by his current retailer for \$645.47 in January 2003 and \$766.48 in April 2003 respectively) – before contacting his retailer again to dispute the accuracy of the invoicing of his previous account. The table below

indicates the variance in the accounts issued to Mr S's business for the three different sites it has operated at since 1998:

Business Address	Period of occupancy	Average charges for quarterly or monthly bills
Site 1	1998 to June 2000	\$ 537.01 quarterly
Site 2 <i>Subject premise for disputed high billing</i>	June 2000 to October 2002	\$639 <i>monthly</i>
Site 3 Current premise	October 2002 to present	\$661 quarterly

During the approximately 29-month period of the disputed high billing, Mr S paid his electricity account in full but says he continually struggled to do so. He emphasised that there had been no changes to his business equipment and little variance in the volume of his business after he moved from site 1. His business records appear to confirm that his sales figures remained reasonably constant suggesting what should have been a relatively consistent pattern of electricity usage at the first two sites based on this information. In particular he has noted that the floor space at site 2 was 500 square metres while at site 3 it is 675 square metres. However, his bills are now much lower with exactly the same business equipment being used and despite the fact that he has now increased his hours of operation.

Mr S informed EWON:

“After running my business for the same hours with the same machines for a couple of years I didn’t budget for a three fold increase in my electricity bills just because I moved around the corner”.

In several discussions with the retailer in his first twelve months of operation at site 2 he emphasised that he had not changed his hours of operation and was concerned about electricity theft. He asked the retailer how this could be checked but says the company left it up to him to determine the cause of his high bills. He estimates he was overcharged around \$14000 while he had his account with the retailer at site 2. He has based this on both a comparison of his bills issued for all three sites and his business' financial records both prior to moving to site 2 in June 2000 and since operating his business at his current premises [site 3] from October 2002.

Mr S says he initiated all contact with his retailer regarding the high level of his monthly billing after first registering his concern about this. He advised EWON that when he first referred his complaint to the retailer they *“went back to their old records and agreed with [him] that there was something seriously wrong with the bills [he] was getting”.*

After contacting his retailer in August 2000 and September 2000 about his concerns he rang the company again on 29 December 2000 to advise that a licensed electrician had inspected the electrical installation at his leased premise as well as the equipment he was operating there and had informed him that he would have to run this equipment 7 days a week for 24 hours a day in order to consume the power for which he was being invoiced. The retailer's customer contact records confirm Mr S provided this information. These records also indicate that he queried the accuracy of the meter at this time; advised the retailer that his electrician's report indicated there might be a problem with the electricity supply; and that he agreed to pay the meter test charge which the retailer discussed with him. He says he did not receive any further information from his retailer regarding their testing of the meter nor did he receive any written advice from the retailer after this regarding their investigation of his complaint.

Mr S says it is unacceptable that the retailer have been unable to provide relevant documentation supporting their position that they had in fact conducted a meter test at some stage following his request on 29 December 2000 and had subsequently written to him on 28 May 2001 advising that the wiring for the two factories needed to be separated as there was only one meter recording usage for both units. He emphasised that "if a complaint is current" it is not appropriate that relevant records are not kept.

Mr S acknowledges that he leased one of the two adjacent factory units at site 2 and that there was only one meter recording usage for both units. He says he agreed with the other tenant that he would have the electricity account as this adjacent unit was only being used for storage purposes. Mr S says he discounted any after hours use of the adjacent factory unit that could have contributed to the high level of consumption as he closed his business well after the trucks and the equipment which were stored there, had been locked up each day. Furthermore, there was no hot water connected or other equipment operating in this other unit - such as the security lighting on timers that he has at his current premise - which might have contributed to the high level of his bills. He discussed the problem with the other tenant who was unable to offer any explanation. Mr S also advised his retailer that when he turned off all his equipment including the lights in his factory, the meter always stopped. He says he conducted this self-check of the meter several times during his occupancy and this always confirmed there was no power being consumed in the adjacent unit. He says he informed his retailer of this outcome of his self-meter checks several times.

Mr S has also informed EWON that in his effort to reduce his bills he did what he could to moderate his consumption: eventually his business used only 30% of the bays of lighting installed in his factory unit and Mr S tried to ensure that any printing equipment not in use was switched off rather than left on standby or idling. He said he had to get up into the roof to turn off the lighting in some of the bays and this meant that he was operating his equipment in semi-darkness on rainy and overcast days. He emphasised that the reduction in the level of the bills from around mid 2001 onwards reflected his "desperate efforts to reduce the bills". However, although these measures did result in reduced consumption, his billing nevertheless remained consistently high when compared with the bills he had received at site 1 and those since received for his current premise [site 3].

Mr S says he organised for his own electrical contractor and a relative (who is also a licensed electrician) to check his installation and audit the connected load of his printing equipment on two separate occasions. These checks did not indicate any problem with the installation or his equipment but the first electrical contractor (now deceased) advised him prior to 29 December 2000 to contact his retailer, as there appeared to be “some problem with the Amp/voltage”. As previously noted, this electrical contractor advised that his audit of Mr S’s business equipment meant that he would have to run this for 24 hours for seven days each week to register the high level of consumption for which he was being billed.

This assessment is supported by the energy audit conducted by Mr S’s relative (licensed electrician). The latter also suggested to Mr S that the problem “could be the result of power factor on the network which was requiring his machines to draw the same amount of volts with greater amps”. Mr S says he did not take up his relative’s suggestion to purchase a power factor correction device as a possible way of addressing his high bills, as he did not want to outlay \$2000 when his retailer would not provide information to assist him to determine the cause[s] of the dramatic increase in his bills. He says a Call Centre operator did, however, subsequently inform him that the level of his bills could not result from any power factor problems on the network.

After attempting unsuccessfully to obtain assistance from his retailer for twelve months, Mr S says he was so busy trying to keep his business “from going to the wall” that he “simply gave up any hope of receiving any help from [the company]”. Given his retailer’s consistent advice that his bills were accurate he felt he was left with no choice but to pay them or risk disconnection. He says he took every practical measure that he could to reduce his consumption even to the point of working in reduced lighting and unsafe conditions so that he could gain some relief from these high charges. Although his bills showed some reduction after his efforts to moderate his consumption, he says he knew that it was not possible for him to be using the power he was invoiced for but says he had no way of demonstrating this to his retailer.

On 5 November 2004 the retailer made an offer of \$2000 ex gratia to Mr S as full and final settlement of his complaint. Mr S declined this on the basis that both his bills for his first business account with the retailer at site 1 and his current expenditure on electricity at his present site suggested he had been significantly overcharged by his retailer in the order of many thousands of dollars. He emphasised that he considered it reasonable that the company compensate him for a much more substantial amount particularly as EWON’s investigation had indicated that the retailer had additional information in their records about the time that the increased consumption at the premise was occurring that they had not shared with him despite his numerous requests to them for assistance.

The Retailer's Response

Information provided to the customer by the retailer during the period of the disputed billing

The retailer's response to the complaint by Mr S while he operated his business from his second site is indicated in several customer contact entries. For the most part, these entries underline that Mr S contacted his retailer several times for assistance regarding the high level of his bills. The retailer's customer contact records indicate that:

- a service order (#number..) denoted as being "urgent" and indicating that a fee of \$32.80 was to apply was initiated for a special meter reading with the instruction – *"Please check read – excessive usage – customer looking for cause?"* – and with a date for completion of 9 August 2000, following a request by Mr S for this check reading on 7 August 2000
- a further service order (#number..) with a recorded completed date of 17 August 2000 states that:

"Please transfer account for period 2/6/00 to 11/7/00 from last customer to this customer. Customer querying amount of this account as it is double his previous address and has asked for check read. Please look at current average usage and amend last month's bill if necessary. Was reading for last amended account provided by customer or by [the company]??? Customer is looking for answer to increased usage at new property."

- Mr S subsequently rang his retailer on 18 August 2000 to query if the check meter reading had been taken:

"Mr S rang querying that we did not do check reading on 9/8/00. I checked MBS and the reading was definitely done on 9/8/00 and our reading done prior was correct as confirmed. I rang customer back at 11.25 and was told he was out of the office."

- The retailer's file entry for 29 December 2000 includes information for service order #number.. including the request for a meter test and a check on the multiplier programmed for the meter; the customer's business number; and confirmation that there was meter access available from 6.30am to 7.30pm. The notation states that:

"Mr S insists there are problems with meter. Have organized meter test and cust aware that he will be charged. Cust states that he has had electrician look at equipment they are running at these premises and equipment would need to be running 24 hours per day, 7 days a week. Cust has report the electrician has written which states there is a problem with Amp/voltage/wave??? Not sure what this meant. Cust paying \$1500 today as he is at risk of disconnection and I advised cust that if he was to be reimbursed, a credit would be put on account. Test issued."

There appear to be two file entries dated 3 May 2001 and these are noted below. The second appears almost identical to the entry of 29 December 2000. On 20 October 04 the retailer informed EWON that this is because the call to Mr S on 3 May 2001 was made by their Debt Recovery Section and the notation indicates that the staff member concerned “had put a complaint on [the provider's] system for billing to investigate” Mr S's concerns and “has copied some of the previous complaint put in by the customer service representative on 29 December 2000”:

1. *“I contacted Mr S re outstanding a/c. He has a problem with the meter readings and feels that he has gone from paying \$500 per quarter to \$1200 per quarter. He has had an electrician look at the meter and there appears to be something wrong with the AMP/Voltage. He advised me that he would pay \$1000 by 4/5. I advised that when we found out what the problem was then he would receive a credit (if required). Please NB that the company next door [address deleted by EWON] is a company called [name deleted by EWON]. They store their trucks at this site at night more like a storage warehouse for the company”.*
2. *“Mr S insists there are problems with meter. Have organized meter test and cust aware that he will be charged. Cust states that he has had electrician look at equipment they are running at these premises and equipment would need to be running 24 hours per day, 7 days a week. Cust has report the electrician has written which states there is a problem with Amp/voltage/wave??? Not sure what this meant. Cust paying \$1000 today as he is at risk of disconnection and I advised cust that if he was to be reimbursed, a credit would be put on account”.*

The retailer have emphasised in their discussions with EWON that they attended the customer's premise on 21 May 2001 as their Metering and Business System (MBS) records show a sundry meter reading was taken on that date. The company believes that a meter test was also conducted at this time. Their records indicate that a letter was subsequently sent to Mr S on 28 May 2001 advising him of the outcome of their investigation. Their records show the following two entries for 25 May and 28 May 2001 respectively:

1. *“BIR (Billing Invoice Reversal) reversed due to Ltr to be sent to customer advising him 2 factories using 1 mtr”.*
2. *“Have sent letter to cust advising him there are 2 factories using 1 meter and he will have to get his electrician in to seperate wiring before a new meter can be installed.”*

The company's records also indicate that on 21 June 2001 Mr S spoke with them again about what might be contributing to the high level of his billing:

“Telephone conversation with Mr S lead to me advising him to contact [name deleted by EWON] (Snr Inst Insp) & [name deleted by EWON] (Voltage Insp.) as he was querying Voltage/Amp power”.

However, the company have advised there would be no record kept of any discussions that Mr S might have had with their technical staff.

Information provided to the customer after he finalised his account at site 2

The retailer's records indicate that Mr S referred his high billing complaint to them again on 12 May 2003, seven months after he had closed his account. It appears that the retailer informed Mr S at that time that they would test the meter and verify the K-constant for the current transformer metering installed at his former premise [site 2]. It is noteworthy that the retailer's customer contact record for this date makes no reference to any previous meter testing having been carried out in the period from December 2000 to May 2001. Mr S rang the retailer on 23 May 2003 to enquire about the outcome of their review.

A file notation of the retailer dated 21 July 2003 indicates the priority the retailer gave to arranging for the meter at Mr S's former business premise [site 2] to be tested in June 2003. This notation indicates that the retailer informed Mr S when he rang them on 8 July 2003 that "the meter tested correctly and the account stands". According to the retailer's records, the company also informed Mr S "he had only been charged for what he had used and [the company] was not in a position to explain the increased usage". The company's file notes:

"It must be considered that [the company]/[the installation company] have bent over backwards & have done everything in accordance to resolve this matter."

Information provided to EWON

The retailer informed EWON on 14 July 2003 that they had sent Mr S a letter on 28 May 2001 advising him that an electrician needed to separate the wiring as two factories were using the one meter. The company also advised that they had tested the meter at Site 2 in June 2003 at their expense, in response to Mr S's renewed contact regarding the accuracy of their billing of his former account. On 17 August 2004 the retailer emphasised in correspondence to EWON that they:

"had investigated this matter prior to the customer vacating the premise and gave information [to the customer] that the cause of the high usage was due to one meter supplying two installations."

The company further noted that they "*do not believe that customer service was lacking in regards to the endeavour to assist the customer*".

The retailer forwarded information from their billing system, meter reading data and customer contact records to EWON on 16 July 2003 as well as the results of the meter test conducted on 26 June 2003. On 15 October 2003 EWON requested additional MBS data and customer contact record information as the information relating to the first twelve months of the account was incomplete. In a telephone discussion on 11 November 2003, the company informed EWON that the customer was not being charged a maximum demand or capacity tariff and that their checking of the 'K-multiplier' in the meter test conducted on 26 June 2003 indicated that the meter was programmed correctly. Copies of the retailer's customer contact entries for this

account were requested again by EWON on 6 January 2004 and the requested information was provided on that date.

The retailer subsequently informed EWON on 21 April 2004 that the MBS data from March 2000 to December 2000 “*is archived and not attainable*”; however, the meter readings “*could be extrapolated from the readings on the customer’s old invoices*”. Some additional information relating to the historical meter reading and billing data for this site was provided on 30 April 2004, as the MBS information initially provided to EWON did not include the data for the period from May 2000 to May 2001. However, on 23 July 2004 and on 17 August 2004, the retailer advised EWON that in order to obtain the MBS data for the first six months of Mr S’s billing at site 2, the retailer would have to employ a computer programmer to try to retrieve this data and, given that there was a significant cost in procuring this, “*the additional information would have to considerably impact the investigation to warrant the expense*”. The archived MBS data was provided on 30 November 2004 following a further request from EWON for this.

The retailer had also informed EWON on 21 April 2004 that the meter test results for the testing that the company believed was conducted in 2001 “are no longer available as hard copies are not kept after 3 years”. The retailer emphasised that their file notation for 28 May 2001 indicates that they had physically attended [the property] prior to 28 May 2001 as a meter reading was taken on 21 May 2001 and that “it is probable the visit was for a meter test but as the record does not exist this cannot be confirmed”.

The retailer also confirmed with EWON that a copy of their letter to the customer advising that he needed to separate the wiring before a new meter could be installed, which their records indicate was sent out on 28 May 2001, was not available as:

“the person who made the notation that a letter was sent to the customer is no longer an employee of [the company] and the letter is not attainable. Most letters are held for about 24 months”.

The retailer emphasised in discussion with EWON that while “*the circumstantial case that the customer had presented was very strong*”, their investigation had not found any error in the billing and there was no record of the separation of the wiring having occurred. The retailer noted that they had also tested the meter twice and this indicated that the company had done what they reasonably could do to assist Mr S with his complaint. In response to the comparative information provided by EWON regarding the variation in Mr S’s business’ consumption at the three different sites, the retailer again acknowledged there appears to be a “*strong circumstantial case*” that there might have been some problem contributing to the level of Mr S’s billing at site 2, however:

“there is no clear, objective data available to demonstrate that this problem was attributable to [the company’s] metering equipment or to any errors in the calculation of his bills”.

The retailer also advised EWON that there was no further information that they could have provided to Mr S that might have assisted in clarifying for him the reasons for the marked change in his bills when he moved to this site.

On 5 November 2004 the retailer informed EWON that their customer contact notation dated 20 June 2001 strongly suggested that Mr S had contacted them on this date in response to their letter which they contend was sent to him on 28 May 2001 advising him that he needed to engage an electrician to separate the wiring for the two factories. The retailer further observed that this notation indicates they escalated the matter at this time via the referral of the complaint to a Senior Installation Inspector and a Voltage Inspector as “he [customer] was querying voltage/Amp power”. The retailer has confirmed with EWON that:

“there are no notations in [the company’s] billing system of any conversations following this communication. The customer supply area has no records of these contacts either”.

The retailer further advised, “*there would be no follow-up as this matter would have been treated as an enquiry with no attached service order or defect follow-up that would have required follow-up*”.

On 5 November 2004 the retailer made an offer to Mr S of \$2000 ex gratia, noting that this was their final offer to resolve this long-standing matter. The company informed EWON they considered the available information established the thoroughness of their investigation of Mr S’s complaint and emphasised that it was difficult for them to rely on the information provided by Mr S and the former tenant who occupied the adjacent factory unit as to what use was made of that premise during the period of Mr S’s occupancy. The retailer also emphasised that “*the cause of the excessive account is something behind the consumer’s terminals and the responsibility of the tenant/owner to rectify*” and, given this, Mr S always had the choice to engage a private contractor to undertake a trace of his wiring.

EWON’s Investigation

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

- information provided by Mr S
- information provided by the retailer
- technical advice regarding CT metering
- information provided by the business operator who leased the adjacent factory unit to that occupied by Mr S at site 2.

The retailer’s records indicate that Mr S established an account at site 2 on 7 August 2000 with a commencement date of 2 June 2000. It appears from these records that the previous customer contacted the retailer regarding the finalising of their account on 27 June 2000. The records indicate that an electricity deposit of \$500 and a “re-visit reading fee” for \$32.80 were apparently invoiced to Mr S’s account on 7 August

2000. This Service Order indicated that a check reading was scheduled for 9 August 2000 as a matter of “urgency”. A [company] notation specifying “*Recorded completion date: 17/8/2000*” was also provided to EWON. This information appears to support Mr S’s position that he had referred his concerns about the high level of his billing to his retailer from the receipt of his first bill. The information provided also reflects the retailer’s timely response to the initial high bill complaint.

The company has informed EWON that the current transformer (CT) meter installed at site 2 - (Meter number ...) - was tested on two occasions: at some stage in early 2001 prior to 28 May and on 26 June 2003 and that on both occasions the meter was found to be registering usage accurately. The retailer does not have a copy of the meter test results for the testing, which they maintain was apparently conducted in early 2001, as “hard copies are not kept after 3 years”.

The retailer’s records indicate that a Service Order (SO Number) was raised on 29 December 2000 after Mr S contacted the company again about the high level of his monthly bills. This Service Order indicates that the testing requested by Mr S was scheduled for 1 January 2001 [New Years Day 2001] and that Mr S agreed to pay for the meter test. There are no records of this meter test having been conducted although the MBS data does indicate that a sundry meter reading was taken on 21 May 2001, a fact that the retailer has emphasised indicates that the meter was most likely tested on this date. The retailer retains a record of the meter test on the same meter (Meter number) that was conducted on 26 June 2003 eight months after Mr S had moved out and which established that the meter was found to be accurately registering consumption.

An amended meter reading was used for the start date for Mr S’s account on 2 June 2000. The MBS data provided to EWON for Meter indicates that the meter reading for 2 June 2000 was cancelled and the registered consumption is shown as 3,999,192 units of electricity. The retailer has advised that this information “*would not have been used to issue an invoice [to Mr S] as it [is] listed there as a reference of what had occurred on that day the reading was taken*”. The retailer has further noted that “*the 2 June 2000 reading that billed was 3571.0*” and that their MBS data does not include meter readings for April 2000 and May 2000; rather, the MBS only reflects the consumption recorded for those months.

Technical Advice

EWON obtained technical advice from an independent technical source regarding the nature of the CT meter testing procedure conducted by the retailer in June 2003. This technical advice suggests that the test results provided to EWON by the retailer confirm that the meter appears to have been correctly programmed and that the current transformer function was in order.

Information provided by the Lessee of the adjacent unit at Site 2

On 29 October 2004, EWON received written advice from the occupant of the adjacent factory unit about his use of this property for the storage of his trucks and equipment. He advised that they were generally on site between 6.00am and 7.15am to load or pick up vehicles and returned any time between 3.30pm and 6.00pm to drop

off vehicles and unload equipment. He noted that “*the only use of power [he] had was fluorescent/high bay lights and the occasional power tool*”. There was no use of the premise at any other times to those indicated above. EWON confirmed with this lessee that the power tools used were small hand held power tools – an electric drill and an angle grinder, both of which were very seldom used. Further, there was no hot water or refrigeration installed, only the lights, which were used when dropping the trucks in and bringing them back at the end of the day. The arrangement was that Mr S would have the electricity account as the meter was in his [Mr S’s] side of the premises and Mr S was aware that the other unit was only being used for storage purposes. He confirmed that Mr S had mentioned to him at one stage that the electricity bills were very high but because he “wasn’t really using the place except to lock up [his] trucks and equipment [he] could offer no explanation as to what might be going on with the bills”.

Analysis of the information

EWON’s investigation considered the information obtained from Mr S and his retailer. Our review has confirmed that Mr S was billed for the usage registered on the meter #... which is currently installed at his former business premise and that the meter testing conducted on 26 June 2003 established that this meter was registering consumption to a degree of accuracy as regulated by Clause 36 of the *Electricity Supply (General) Regulation 2001*. The retailer billed Mr S on a general supply tariff for the period of the disputed billing. The examination of billing data for the accounts held at the three consecutive sites that Mr S has operated his business – Site 1 (prior to June 2000); Site 2 (June 2000 to October 2002) and Site 3 (October 2002 to present) – confirms the significant disparity in the level of his billing while he was at Site 2.

The retailer has informed EWON they did what they could to address Mr S’s complaint. They conducted a meter check read on 9 August 2000 in response to the customer’s initial contact about the high level of his monthly billing. He was billed \$2747.19 for the first 63 days of his account at Site 2 on the basis of an average daily usage of 257kwh. This compares with his quarterly bill for \$543.47 issued for the period 14 December 1999 to 17 March 2000 while he was still at Site 1 with a daily average usage of 53.45kwh. An amended bill for \$1678.06 was subsequently issued to replace the invoice for \$2747.19, presumably because an actual reading was not taken for the start of the account. A retailer’s record for 18 August 2000 indicates that the retailer tried to contact Mr S to inform him that the check reading taken on 9 August 2000 confirmed the accuracy of the previous meter reading [on 4 August 2000] but he was out of the office.

When Mr S contacted his retailer again on 29 December 2000, the company scheduled a meter test for 1 January 2001 and advised him he would be charged for this. The retailer’s records also indicate that Mr S had agreed to pay \$1500 on that date “as he [was] at risk of disconnection”.

The retailer’s next record for 3 May 2001 suggests the company might have initiated the contact as the notation states Mr S “*is paying \$1000 today as he is at risk of*

disconnection".¹ Reference is again made in this notation to Mr S's concerns about problems with the meter but there is no information to indicate that a service order for a meter test was issued or that the previous service order had been carried out. The company's file record for 25 May 2001 states:

"BIR reversed due to ltr to be sent to customer advising him 2 factories using 1 mtr".

In response to EWON's enquiry about this entry, the retailer has advised:

"BIR reversed refers to billing reversals ... this would appear to occur so invoices could go with letter".

There is no further information available to clarify why there would have been billing reversals or amendments.

The retailer's final customer contact entries in the period in which Mr S had his account at Site 2 indicate the further steps taken by the retailer to address his complaint.

There are two notations entered by the same company *cust advising him his electrician will have to separate wiring before new mtr can be installed and there are 2 factories using 1 meter*".

The second entry states:

"Have sent ltr to cust advising him there are 2 factories using 1 mtr. He will have to get his electrician in to separate wiring before a new mtr can be installed".

It is not clear why there are two entries but they appear to indicate that this was the basis on which the retailer finalised their investigation of Mr S's complaint. The retailer's record of contact with Mr S entered on 20 June 2001 appears to indicate that the company referred him to a senior installation inspector and a voltage inspector "*as he was querying voltage/amp/power*". EWON acknowledges the retailer's position that Mr S may have rung the company on 20 June 2001 in response to their letter dated 28 May 2001. However, Mr S is adamant he did not receive any letter and says while he does not have any firm recollection of the retailer referring him to these particular technical staff he says he thinks he did speak with an inspector at one stage. However, he has emphasised that he is "very clear" that there was no commitment given by his retailer to providing any further assistance to him. It is also reasonable to assume that there would have been some reference made by the retailer in this discussion on 20 June 2001 to their conclusion that the two factories and single meter suggested the underlying causes of the customer's high billing problem.

¹ The retailer's customer contact notations for 29 December 2000 and 3 May 2001 are, as noted on pages 6 and 14 of this Determination, almost identical. The company has informed EWON that this is because the second entry reflects the earlier one being "cut and pasted" with an amendment being made to the payment amount Mr S committed to on each date.

The remaining customer contact record entries indicate that retailer refused Mr S's request for a payment extension on 20 August 2002 and that on 15 October 2002 he rang to finalise his account at Site 2.

The available information suggests that the retailer did not conduct a meter test when the customer requested this and agreed to pay for this on 29 December 2000. A service order was generated but there is no further information as to whether this testing occurred. On 12 May 2003, seven months after moving out of site 2, Mr S contacted the retailer again about his high billing at that site. The company's records make no reference to any previous meter testing having taken place (ie prior to May 2001 or thereafter) or to the letter which the company's records indicate was sent to the customer on 28 May 2001 advising him to separate the wiring. Rather, a meter test was scheduled on 13 May 2003 and this was completed on 26 June 2003. The company's records indicate that they did attend the customer's premise on 21 May 2001 as a sundry meter reading is included in the MBS data for this date but there is no record of any other activity or contact with the customer indicated. Mr S has consistently advised EWON that if his supplier did attend his premise at that time, they did not notify him of this fact or discuss the situation with him while they were there.

The fact that the company has not retained a record of their letter to Mr S dated 28 May 2001 nor any documentation to support their position that they did test the meter in the first half of 2001 creates an element of doubt. The company informed EWON on 15 July 2004 that:

“the document storage and retrieval over this matter is less than satisfactory. The records that have led [the company] to this conclusion [that the company's response to Mr S's high bill complaint was reasonable] are extensive, however the prima facie data is not”.

Mr S has emphasised in his discussion with EWON that he did not receive the company's letter and was never informed of any meter test results [either verbally or in writing] while he operated his business at this site. The company agree that their records indicate that Mr S was not charged for any meter testing for the period covered by his account at site 2. Also, the company's customer contact entry for 03 May 2001 is almost identical to the entry dated 29 December 2000. The differences are the references to payment of \$1500 (in the 29 December entry) and \$1000 (in the 03 May 2001 entries) and the absence of any reference to a meter test being issued in the 03 May 2001 entries. In response to EWON's request for clarification regarding these almost identical entries, the company advised that the staff member Mr S spoke with on this date had “cut and pasted” a copy of the entry dated 29 December 2000 when Mr S spoke with the company on 3 May 2001 and the staff member had simply changed the amount the customer agreed to pay. This standard of record keeping for a customer who was seeking assistance with atypically high billing does not appear to support the company's position that they did everything they could to assist Mr S.

Mr S says the company did not follow up with him about the meter test he had requested. He said he has some recollection of a discussion with a female staff member at the company about the meter and says he kept emphasising that the adjacent factory unit was used for storage only. He also recalls advising the company

that when he turned off all his equipment, the meter stopped registering. He says the company was disinterested in this information and kept advising him it was up to him to determine how the power was being used and if he did not pay his bills he would be disconnected.

In their fax to EWON dated 15 July 2004, the company states:

“After metering became contestable there was no obligation to provide any audit process at no cost to Mr S”

However, as the company is the meter provider and owns the meter, it seems reasonable that they would have conducted the meter test, as the customer had arranged with them on 29 December 2000 that he would pay for this to be conducted. If this testing was conducted, it seems reasonable that the company would retain a record of the results and the letter advising the customer of the outcome.

Meter [#number...] that is installed at this premise is a time-of-use meter and gives details of the consumption registered for the different time bands. EWON’s investigation of the archived MBS data indicates that:

- approximately 39.94% of the electricity usage recorded on Mr S’s meter in the period from August 2000 to April 2001 (first 10 months of occupancy) and
- 38.5% of the electricity usage registered on this meter in the period from May 2001 to October 2002 (when Mr S left the premise),

occurred in the time band from 10pm to 7am.

This information was always available to the company but was not provided to Mr S until EWON requested the MBS data as part of its investigation. The company’s records confirm that Mr S contacted them five times while he held his account at site 2. These contacts occurred in the first twelve months of his billing at this site. Mr S also contacted the company on 12 May 2003 and 8 July 2003 about his high bill complaint several months after he had left this premise. It seems that when Mr S contacted the company for assistance, they did not refer to the breakdown of consumption information by time bands as recorded in the MBS data, despite the fact that Mr S says he emphasised to them that his hours of operation had not changed; his equipment had not changed; and the volume of his business remained very consistent. Mr S says he asked the company about the possibility of electricity theft and insists it would have been very useful for him to learn of the high level of metered consumption between 10pm and 7am. The information about the usage that was occurring in this time frame tends to confirm Mr S’s insistence that his business was not using the power he was being invoiced for. Had the retailer referred to all the relevant information in the MBS data when Mr S contacted them about his high bills², he says he would have been very well placed to conduct an investigation into what was happening at this site between 10pm and 7am that was consuming such significant amounts of energy.

² The company’s customer contact record for 17 August 2000 includes a reference by the Customer Service Representative to a “check” of the MBS.

Given the dramatic increase in the size of the customer's bills and the comprehensive MBS information available regarding the time-of-use metering data that was available to the retailer, it seems reasonable to conclude that the company's customer service significantly failed Mr S while he held his account at site 2. Information that could have significantly assisted him to find an explanation for the high bills he was receiving was not provided to him. This was clearly inadvertent, but the failure to provide this information from the readily accessible MBS data occurred to the significant financial detriment of this customer. Similarly, the apparent failure to conduct a meter test as was requested while Mr S occupied the premise also appears to have significantly disadvantaged him. The provision of meter test results would have clarified for Mr S that a faulty meter was not responsible for the inexplicably high bills he was receiving. Instead, it seems he was left to grapple with information about power factor, volts and amperage as suggested by the electrical contractors who audited his equipment and who advised him it was impossible for his business equipment to consume such a high amount of power.

EWON's examination of the MBS data for the period immediately after Mr S moved out reveals that approximately 50% of the usage in the six months between October 2002 and March 2003 occurred during the time band from 10pm to 7am. When Mr S contacted the company in May 2003 after his bills issued for his new account at site 3 indicated that his electricity charges had returned to pre-site 2 levels, the retailer again appears to have failed to interrogate the MBS data, which pointed to the significant after business hours consumption occurring at this site. The company also informed EWON in October 2004 that their records indicated they had not had a customer listed for site 2 since Mr S moved out in October 2002. This is despite the relatively high level of consumption reflected in the MBS data provided to EWON for the first twelve months after Mr S had left the property. EWON's review of the information provided by the retailer in their customer contact records prior to Mr S occupying this premise also indicates that there had been other high bill complaints referred by former account holders at this site.

EWON acknowledges that in the circumstances of this matter there was nothing to preclude Mr S approaching his landlord to arrange for the separate metering of his factory. It is also possible that in a telephone discussion with Mr S on 20 June 2001 the retailer may have discussed with Mr S that their investigation had concluded he needed to arrange for the separation of the wiring for the two factories. However, Mr S says he has no recollection of receiving this advice. Given the level of financial distress and anxiety that his electricity invoicing placed on him, it seems inconsistent with all other action taken by Mr S that he did not act on advice from the retailer if it was given to him.

Furthermore, if this was, as the retailer contends, the basis on which the company had concluded their investigation of his high bill complaint, it is not clear why the company apparently referred Mr S to their technical staff as the next step in their investigation of the complaint.

The retailer was very well placed to assist this customer with information that was accumulating every month about the high level of night-time consumption being registered at this site. The company has informed EWON that many of their staff reviewed this matter in the period during and after Mr S held his account for this

premise. However, it seems that no one apparently thought to refer to and analyse the MBS time of use consumption data that was available. The company's follow-up discussion with Mr S on 17 August 2000 regarding the check meter reading conducted on 9 August 2000 was a significant missed opportunity for them to provide critically important information that was available in the MBS records for this site. The company's records indicate that similar opportunities to provide this information to Mr S occurred on 29 December 2000, 3 May 2001 and 20 June 2001 and in the discussions with Mr S in the first half of 2003 after he had vacated the premises.

Strictly speaking, the retailer did not overcharge Mr S, as they only billed him for the consumption registered on his meter, and their meter testing carried out eight months after he had left the premise confirmed that this meter was functioning accurately. However, their apparent failure to conduct a meter test as arranged with the customer on 29 December 2000 is also significant, as is their omission in advising the customer he could seek an independent review of his complaint with EWON.

It appears that the retailer failed to provide a satisfactory level of customer service to Mr S and, on this basis, it seems reasonable that the company compensate him for the financial burden he incurred. It also seems reasonable that this compensation should be by way of an ex gratia payment equivalent to the charges invoiced to him for the consumption registered in the time band from 10.00pm to 7.00am for the period from August 2000 (when he first contacted the company about his concerns regarding the level of his billing and agreed to pay for a check meter reading) to October 2002.

The company's review of the metered consumption in the period from June 2000 to October 2002 has confirmed EWON's calculation that the amount of energy consumed in the time band from 10pm to 7am was approximately 40% of the total amount for which Mr S was invoiced during his occupancy. The company has also calculated that the charges for the Time-of-Use off-peak consumption in the 10pm to 7am time band in the period from August 2000 [when Mr S first registered his high bill complaint with the company] to October 2002 [when he left the premise] total \$6531.77 [using the tariff at the time].

Conclusion

Given the available information, EWON is not in a position to comment on what might have contributed to the significant increase in electricity usage in relation to Mr S's former business premise. However, there appears to be credible information available that indicates Mr S took reasonable and appropriate steps to address the high level of his billing and contacted his retailer at a very early stage for assistance. While EWON acknowledges the retailer's response that the cause of the excessive billing appears to be "something beyond the consumer's terminals and the responsibility of the owner/tenant to rectify", EWON's investigation has established that the company had important information that was readily available in their records about the metered consumption at Mr S's premise which, if it had been shared with him, would have provided him with a basis to investigate further and thereby substantially reduce his energy charges. The contacts that the company's records indicate Mr S initiated with the retailer from the inception of the billing of his new account for Site 2 also highlight that the company had several opportunities to assist him via the provision of this critically important information.

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 \$6531.77 to Mr S to resolve his complaint. This amount equates to the charges for the registered consumption for the 10pm to 7am time band.

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

Clare Petre
Energy & Water Ombudsman NSW

4 August 2005