



ACCC request for advice about retailer hardship policies

The ACCC, as part of its Retail Electricity Pricing Inquiry, has asked EWON to provide it with information regarding hardship programs, and statistics and case studies relating to complaints from small businesses.

EWON Overview

Through its casework over many years, EWON has identified that retailers' hardship plans vary in terms of accessibility, breadth and depth of coverage (ie aspects such as debt waiver, payment plan matching, follow up by retailer case managers, referral to financial counsellors or no interest loan providers, energy audits and access to energy saving appliances, contract review and rebate assistance), size of the hardship team and where it is located within the retailer's structure. This can vary from being a stand-alone team, part of the customer service team, or in EWON's experience, inappropriately aligned with the retailer's debt collection / credit team.

Given the size, profitability, and customer base of first tier retailers as compared to long term second tier retailers and today, the newer retailer entrants to the energy market, it is not surprising that AGL, Origin Energy and EnergyAustralia are positioned to provide their customers access to what could be considered the most 'sophisticated' hardship programs in terms of the level of financial support, breadth/depth of coverage and accessibility.

That does not mean that their customers who need this support are always identified and provided with it. Further, it does not mean that the hardship programs of second tier retailers, long standing and newer entrants, are not effective in addressing the hardship needs of their customers.

What it does mean though, in EWON's experience, for customers facing most extreme financial hardship and vulnerability, having a first tier retailer as their energy supplier is potentially much more beneficial. Accordingly, when these customers are marketed to by second tier retailers, and later need the support of a 'sophisticated' hardship program, it is not available to them. And again, in EWON's experience, these retailers can be less open to appropriately supporting these customers.

EWON also raised this issue at a hearing of the NSW Upper House Inquiry into electricity supply, demand and prices.¹

Accordingly, as stated in EWON's submission of 17 November 2017 to the Retail Electricity Pricing Inquiry, introducing a rating scheme for hardship programs and including hardship program criteria as part of the information available to customers when choosing to switch to a new retailer / contract, would provide a better platform of information for informed decision making.

¹<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryEventTranscript/Transcript/10155/Transcript%20-%202018%20-%20Uncorrected.pdf>, p45

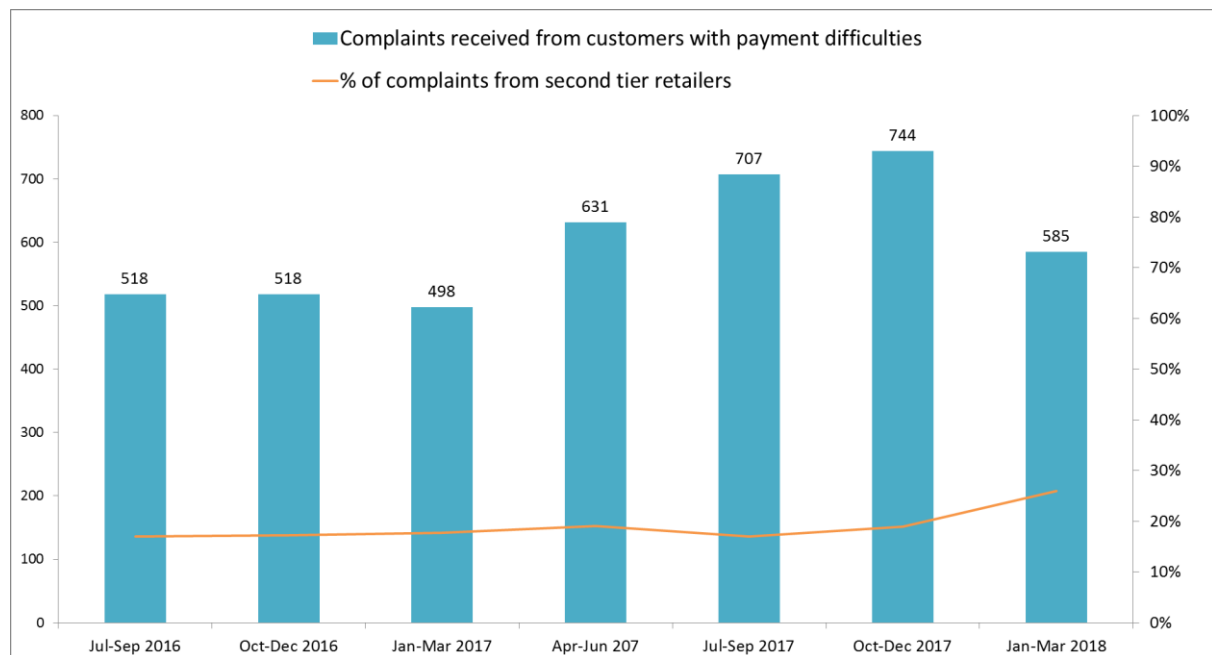
Identifying customers experiencing short / long term financial vulnerability who contact EWON

There are two key complaint issues that EWON uses to track complaints from customers who are in hardship, or having difficulty accessing payment arrangements.

A. The issue group 'payment difficulties' which includes the following individual complaint issues:

Primary Issue	Secondary Issue	Tertiary Issue
Credit	Payment difficulties	arrangement declined
Credit	Payment difficulties	current/arrears
Credit	Payment difficulties	high bill
Credit	Payment difficulties	other

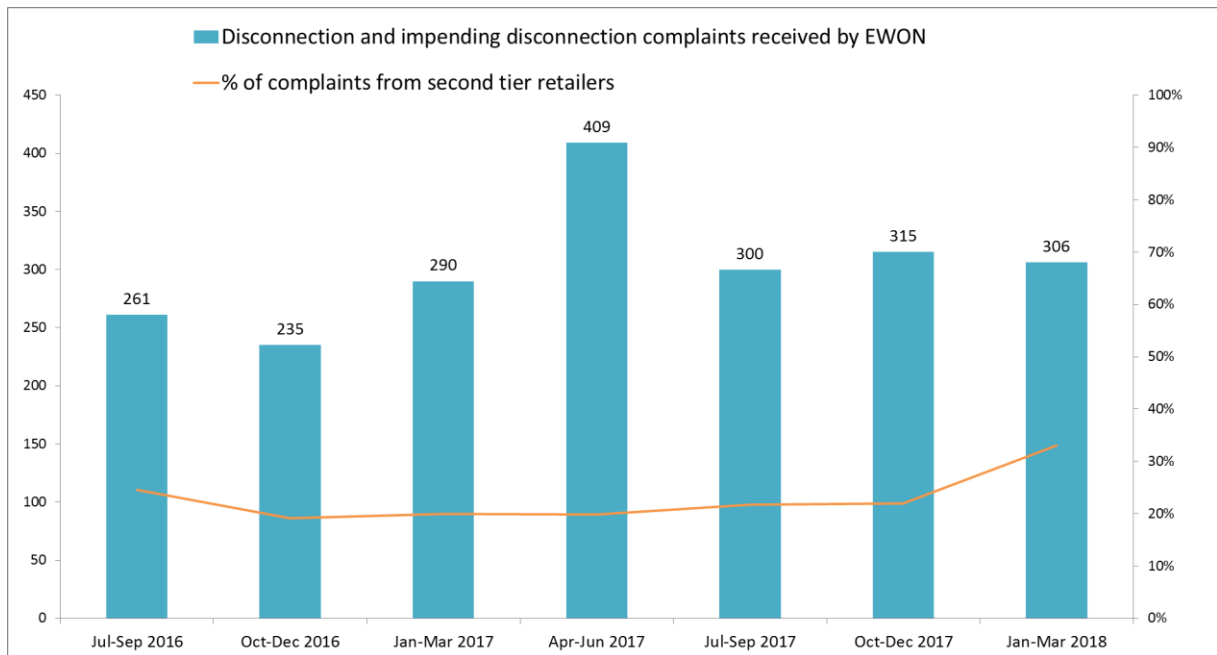
This graph shows the number of energy complaints involving customers with payment difficulties that we receive from second tier retailers relative to the total number of complaints about these issues:



B. Complaints about disconnection, particularly the individual complaint issues:

Primary Issue	Secondary Issue	Tertiary Issue
Credit	disconnection/restriction	complete
Credit	disconnection/restriction	impending

This graph shows the number of energy complaints about disconnections that we receive from second tier retailers relative to the total number of complaints about these issues:



Questions posed by the ACCC

1. Are there any differences in the way that large retailers and small retailers approach hardship and payment plan obligations?

EWON regularly reviews the complaints we receive about disconnections and complaints from customers with payment difficulties, as part of our monitoring of potential systemic issues and our quarterly reporting to members and regulators. Again, EWON's views about the effectiveness of retailer hardship programs have been informed by its casework over many years. Our daily complaints handling and systemic issue monitoring focuses our attention and actions on what is currently occurring, in turn influencing our long term views.

Accordingly, we are currently considering what actions we will take with respect to two potential systemic issues arising from the approach to disconnections and hardship taken by **two** individual second tier / small energy retailers.

Taking that longer term view, we consider that these two systemic issues are indicative of the differences between the approaches to customer hardship taken by the large retailers when compared with second tier and smaller retailers. The key differences are a lack of flexibility towards negotiating payment arrangements and the reluctance to provide medium to long term support for customers experiencing hardship, which we mentioned previously.

1. Energy retailer requiring large prescribed payments towards an energy debt before considering reconnecting a customer or agreeing to a payment plan.

EWON recently identified that we were having difficulty resolving hardship and disconnection complaints with one of our small retail members.

Our key concerns were that the retailer's starting position when negotiating with customers who had been disconnected was a requirement for a significant payment (75% of the overdue amount) before reconnection would be considered. Further, it appeared there was no consideration of the

customer's individual circumstances and it appeared no hardship assistance was offered for customers who had been disconnected.

We notified the retailer of our concerns and that we consider the issue to be potentially systemic in nature. The retailer has responded to our concerns by outlining its general approach to customers who have been disconnected:

- In the first instance the retailer requests payment of 75% of the outstanding debt at the time of disconnection for non-payment.
- In support of the payment of the outstanding debt the retailer asks that the customer enter into a payment arrangement that will meet their ongoing consumption and arrears.
- An understanding of any special circumstances that the retailer should be aware of with regards to reconnection if the above can't be met; this includes: safety, consideration for eligibility to the hardship program, previous interactions with the customer, the level of debt, consumption trends, and what active steps the customer has taken to rectify the matter that lead to the de-energisation.
- Where the above can't be met then the retailer understands the customer may choose a new retailer and, in those instances, the retailer would consider debt reduction and a fair and reasonable payment plan for the remainder of the arrears.

At this stage, EWON has responded to the retailer with the following advice:

- It has been our recent experience that when managing disconnection and hardship complaints, the retailer's approach to negotiating payment appears to be too prescriptive and not flexible towards the specific circumstances of the customer.
- It is a requirement of the National Energy Retail Law (s50) that retailers must offer and apply payment plans for hardship customers.
- The National Energy Retail Rules (r72) dictates that a payment plan for a hardship customer must be established having regard to the customer's capacity to pay and any arrears owing by the customer, and the customer's expected energy consumption needs, over the following 12 month period and include an offer for the customer to pay for their energy consumption in advance or in arrears by instalment payments.
- It is our position that a retailer's responsibilities to offer payment plans to their customers under the Law and the Rules does not stop once the customer's property is disconnected. As the customer's contract does not end until after 10 business days following disconnection, the above rules in relation to offering payment plans to customers should still apply.
- We understand that in some instances customers have broken multiple payment plans which changes the obligations on retailers, and this will mean that additional considerations need to apply to any payment arrangement offered to the customer.
- Our approach to managing complaints from their customers will continue to focus on getting the customer reconnected and on an affordable payment arrangement for either the short or long term.

The following three case studies illustrate some of our concerns with this retailer's approach to customers experiencing payment difficulties:

This customer contacted EWON because she could not access an affordable payment plan

A customer contacted EWON to get help paying her electricity bill. The customer had received a disconnection notice from the retailer and with around \$460 outstanding. The customer told EWON that she had asked the retailer to consider accepting an arrangement with an initial payment of \$150 with ongoing payments for the remaining balance. The customer was told that the retailer would not

accept this arrangement and suggested she seek EAPA. The customer told EWON that the retailer expected an upfront payment of \$360, but she was not in a position to do this. She would be contacting EAPA agencies to seek assistance.

The retailer confirmed that there was no disconnection raised at that stage. It referred the customer to its hardship team to discuss and establish a payment plan that is suitable for the customer. The customer was aware she can return to EWON should she be dissatisfied with her discussions with the retailer about her situation.

This customer was disconnected with a large arrears but with little contact with the retailer. The customer displayed clear signs of hardship. The retailer required upfront payment of 50% of the balance owing.

A customer contacted EWON on the day she was disconnected by the retailer. The customer advised that she could afford to pay \$30 that day toward her account and \$25 per fortnight going forward. The customer received a pension payment and an energy rebate. The customer also advised EWON that she would seek an appointment for an EAPA assessment. The customer lived in a rural town where she experienced temperature extremes.

The retailer advised EWON that the balance owing was \$2,285. The customer had moved into the property eight months ago and there had been little prior contact with the customer. The retailer noted that there appeared to be high usage at the property but this had not been discussed with the customer. The retailer advised EWON that a payment of \$30 upfront would not be acceptable and that generally a payment of 50% of the outstanding balance was required before reconnection would be considered. The retailer had not previously offered a payment plan to the customer. The retailer was not prepared to reconnect based on the customer's known circumstances.

EWON contacted the retailer again after clarifying with the customer that she also managed a medical condition that made her more sensitive to temperature extremes. The retailer accepted the customer's proposal for a payment plan, raised a reconnection order and referred the customer to its hardship program.

The obligation to offer a payment plan does not cease after the customer has been disconnected.

A customer advised that her electricity had been disconnected due to non-payment. The retailer advised the customer that she had arrears of over \$3,000 and required a \$2,400 payment for reconnection. The customer informed EWON that she had offered to pay \$800 and then \$100 weekly, but that the retailer had refused her offer.

EWON contacted the retailer which initially refused to reconnect unless the customer paid \$2,400. EWON requested further information and established that the customer had no history of disconnection and had not been on a payment plan nor had there been a referral to the hardship program. The retailer argued that, as the customer had not contacted it prior to the disconnection, it was not obliged to offer access to the hardship program or provide a payment plan. EWON pointed to the AER's Sustainable Payment Plans Framework but the retailer indicated that it had not adopted the Framework.

EWON noted that only one SMS message had been sent to the customer by the retailer, after the final disconnection, and EWON pointed out that this did not constitute a satisfactory attempt at personal contact. EWON also pointed out that the customer had tried to arrange a payment plan after disconnection. EWON indicated that the fact the customer was in receipt of Centrelink payments and was seeking EAPA were indicators of hardship.

On the basis that the attempt at personal contact was unsatisfactory, the retailer agreed to reconnect without an upfront payment. A referral to the hardship program was arranged and the customer was referred to a local agency for financial advice and support.

2. Second tier energy retailer encouraging customers in hardship to transfer to other retailers.

EWON has also recently identified a number of cases where one second tier retailer was strongly encouraging hardship customers who had made a request for assistance to transfer away to another retailer. A number of this retailer's customers who contacted EWON had also had difficulty in obtaining an affordable payment plan from the retailer.

EWON has not approached the retailer about this potentially systemic issue at this stage, as we are still gathering data.

The customer was seeking a payment plan due to hardship. The customer could not afford the previous payment arrangement she had been offered. The retailer advised the customer that her best option was to transfer to another retailer.

A customer had held her account with the retailer for around 12 months. Over the previous year she experienced multiple health issues and was unexpectedly in hospital for three months and continued to have medical complications after returning home. The customer had previous payment arrangements in place, however was unable to maintain the payments. The customer advised that she would be returning to work and could afford to pay \$150 per fortnight. The retailer refused the customer's further request for a payment arrangement and told her that her best option was to find another retailer. The customer did not want to transfer to another retailer and wanted to pay her outstanding bills.

EWON referred the customer to a higher level at the retailer with the customer's agreement, knowing she could re-contact EWON if necessary. She returned to EWON to thank us for the support and said that she had decided to move from the property.

EWON negotiated for the customer to be reconnected and placed on a new payment plan. The retailer also offered to provide additional credits to the account if the hardship customer transferred to a new retailer.

A customer was disconnected by her energy retailer for an overdue amount of \$864.80. The customer had written to the retailer 6 months earlier disputing the accuracy of her billing. The customer had not received a response from the retailer and after some time ceased making her regular payments of \$32 per week. The customer contacted her retailer after being disconnected and the retailer advised her that it would not reconnect the property unless the outstanding amount was paid in full. The customer asked the retailer if it would agree to a payment plan of for the same amount of \$32 per week as she was still experiencing financial hardship with a limited Centrelink income. The retailer refused this request.

EWON contacted the retailer and the customer was reconnected and negotiated a payment plan. EWON noted that the customer had had one previous broken payment plan.

The customer also wanted a review of the accuracy of the billing of her energy account. The retailer offered to waive the customer's outstanding balance of \$1,227.62 if the customer decided to transfer to a new retailer. The customer accepted this outcome and agreed to transfer to a different

retailer. EWON also provided the customer with information about EAPA and financial counselling.

2. Are consumers able to negotiate entry to a hardship program or payment plan scheme without the involvement of an ombudsman, financial counsellor or other consumer advocate?

Many of the complaints we receive about disconnections and payment difficulties end up at our office because the customer has not been able to access an affordable payment plan or get reconnected on their own. On that basis, we can confirm that many customers are unable to negotiate entry to a hardship program or payment plan scheme without assistance.

EWON's quarterly activity report for April to June 2017 contained a dedicated section on complaints about consumer hardship and the application of the AER's Sustainable Payment Plan Framework.

The specific issues facing energy consumers in hardship outlined in this report included:

- Retailers requiring upfront payments from consumers who are requesting a payment plan or who have been disconnected / facing disconnection.
- Retailers placing 'willingness to pay' conditions customers requesting a payment plan or access to a hardship program.
- Retailers refusing requests for a payment plan and failed negotiations between the customer and their retailer.
- Customers trying to negotiate a payment arrangement with a retailer on a closed account.
- Customers taking positive steps to make regular payments towards their account, but their retailer not accepting these payments as a formal payment plan.

A copy of the report can be downloaded from:

<https://www.ewon.com.au/content/Document/Publications%20and%20submissions/Quarterly%20activity%20report/Quarterly-Activity-Report-Apr-Jun-2017.pdf>

Small business customer complaints

3. Can you please advise the number of business customer complaints you receive each year by issue?

Business customer complaints received by EWON by issue	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018*
Billing: high and disputed bills, fees and charges, responsibility for accounts, incorrect network tariff, classification as large or small business customer	1,008	1,365	1,358	1,015	854	803
Credit: disconnection, arrears, difficulty in payment, payment arrangement declined, debt collection	347	509	482	360	262	269
Customer service: failure to respond, incorrect advice, poor attitude/service	388	536	837	617	532	580

Business customer complaints received by EWON by issue	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018*
Transfer: error in billing or transfer of account due to switching retailers, contract terms, delay in transfer, site ownership, transfer without explicit informed consent	406	467	389	289	174	124
Digital meter exchange: delay, meter not installed, incorrect advice, failure to respond/notify, billing, terms and conditions	N/A	N/A	N/A	N/A	N/A	37
General: non energy/water related, contractors	24	15	24	17	13	10
Land: impact of network assets, maintenance, environment	17	22	15	13	10	7
Marketing: conduct by marketers, misleading information, pressure, non-account holder signed up	63	47	49	29	38	45
Provision: problems with new or existing connections	31	45	34	32	12	33
Supply: quality, damage/loss, outages.	79	82	60	82	72	29
Total Complaints *	1,936	2,425	2,326	1,797	1,507	1,577

* A single complaint may contain multiple case issues. For example, a business owner's complaint may involve billing, credit and customer service issues. For this reason, the totals do not match the sums of the columns.

* Incomplete financial year: data extracted on 22 May 2018.

4. We are looking to include some business case studies in our report, particularly where a business receives high bills due to incorrect classification as a large customer.

EWON considers this issue to be a key issue in energy affordability for small business customers. Our understanding of the issue is that:

- The rules requiring retailers and distributors to classify business customers do not include a requirement to place a customer on the most suitable network tariff. However, some networks have indicated to EWON that they do review business customers' network tariffs based on a window of the customer's load history.
- Distributors generally require at least 12 months of historical consumption data before they will review the network classification or tariff being charged to a business customer. This policy may have a significant affordability impact on small business customers who have recently moved into a site.
- There is often limited information available to small business customers who are considering a site for their business about the applicable network tariff. Customers often complain that they were unaware that their classification had been reviewed or that they had the right to request a review of their network tariff.

EWON did raise the issue of how network tariffs are assigned to small business move-in customers as a systemic issue with one of our member organisations in November 2016. At our meeting with the distributor, EWON suggested the distributor should consider extending its policy of applying

default tariffs to new connection customers to also cover move-in small business customers. We considered that this action may help to minimise the number of small businesses paying for inappropriate network tariffs. The distributor noted that it would consider this suggestion.

EWON also raised the issue with the AER who considered that retailers should be addressing the issue of assigning an appropriate network tariff to a new small business customer at the time of negotiating the energy contract.

The following case studies illustrate the issues facing small businesses.

The current rules only require the distributor to review the business customer's classification – not the network tariff. The distributor considers that the retailer must initiate discussions with the customer about changing the network tariff. It can be unaffordable for a business if the customer's classification is reviewed, and changed, but the network tariff remains the same.

A small business customer contacted EWON after receiving a letter from his electricity retailer notifying him of an overdue amount of \$9,107.45. The customer was previously unaware of the debt and considered that he had been paying his monthly bills on time. The customer had contacted his retailer who recommended he make an email complaint to its customer service section. The customer was told by his retailer that the tariffs charged to his account had changed and his previous contract had expired. The retailer advised the customer that notification of these changes had been sent to his email address. The customer said that the retailer had not sent notification to his correct address.

The retailer advised EWON that the customer had previously been undercharged and a recent bill recovering these undercharges contributed to the overdue amount of \$9,107.45. The customer was being billed on a network tariff designed for a business with high electricity consumption. EWON's review of the information provided by the retailer indicated that the customer's consumption had been under 100MWh p.a., making the business eligible for a small customer classification and network tariff, for at least 18 months. It also appeared that the retailer had not discussed appropriate tariffs or classification with the customer after his initial contract expired or when he re-signed a new contract.

EWON also noted that the customer's classification had been changed from large to small three years before the customer made a complaint (in 2014). However, there had been no change made to the network tariff charged to the customer at this time and he remained on a network tariff designed for large customers. The distributor then changed the customer's classification back to large so it would align with this inappropriate network tariff (in January 2018).

The retailer acknowledged that a more appropriate tariff designed for a customer of lower consumption would be more affordable and appropriate for the customer. The distributor acknowledged that it had reviewed the classification three years earlier, but maintained that the rules did not require it to also review whether the network tariff was appropriate and it was the retailer's responsibility to request a change to the tariff. The complaint was resolved after EWON assisted the customer in making a request to the retailer to obtain an appropriate network classification and network tariff. The retailer also offered to apply a credit of \$5,000 to the customer's account.

The rules and policies for assigning customers with a network classification and tariff often impact on energy affordability for small business customers. This issue particularly affects new small businesses or businesses who have recently changed premises (move-in customers). Retailers must also take responsibility for providing new business customers with adequate information about appropriate network tariffs.

A small business customer contacted EWON to dispute the first quarterly electricity bill received from his retailer for \$2,819.67. The customer had just moved into the premises and complained that he was being charged a capacity demand charge. The customer explained to EWON that he had not been made aware that he would incur such a charge and considered that his business did not consume enough electricity to justify it. The customer had contacted the retailer who advised him that his network tariff could not be changed.

EWON contacted the retailer who reviewed the customer's consumption and acknowledged that the customer would be better suited to a network tariff designed for businesses with low annual consumption. The retailer provided EWON with a tariff change request form for the customer to complete. The retailer submitted the request to change the customer's network tariff and offered to credit the customer's account with \$758.73. The customer was referred back to their retailer to discuss a payment arrangement or extension of time to pay the balance owing.

The system for assigning and reviewing the network classification and tariff is complex and difficult for small business owners to navigate.

A small business customer moved into a property around 6 months before she contacted EWON. The customer received her initial electricity bill from her retailer which included a high daily supply charge. The customer initially contacted her retailer to ask if this supply charge could be reduced. The retailer advised the customer that the property was previously classified as a business with a large annual electricity consumption which meant that the network tariff applied to her account came with higher supply charges. The customer noted that the property had been vacant for three years prior to her business moving in. However, the retailer advised her that the distributor required her business to operate at the property for 12 months before the network tariff could be reviewed. The customer advised EWON that if she continued to be billed on the current network tariff she would not be able to afford to run her business.

The customer had also contacted the distributor who advised her that a special form could be filled out for a business owner in her circumstances to receive an early tariff review. The customer returned to the retailer who advised that a special request for such a review could not be submitted to the distributor.

EWON contacted the retailer who confirmed that the network tariff had been now changed to suit the level of consumption for the customer's business. The retailer also provided the customer with a credit of \$1,000 for the poor customer service she had experienced.