

DECISION

Background

- 1 The complainant, Miss LL, first made a complaint to the Tolling Customer Ombudsman (TCO) on 26 February 2014, via online complaint form as follows:¹

“Complaint details

I had automatic top up activated & because I didn't have enough money in my account, my top up was cancelled. I thought I did the right thing by logging into my account & reactivating it, but I wasn't told that in September, the top up had a block on it and I had to contact customer service to reactivate it. The automatic top up wasn't working but I didn't know why, I would just log into my online account and pay what I owed for tolls. Then I received about 20 demand notices for unpaid tolls, totalling nearly \$1000. For some reason they weren't added to my account so when I logged in, I wasn't getting the full amount I owed. I contacted Customer Service and they said it was my fault for not being in credit, which I can understand. But my issue was, I wasn't told about the top up being blocked and I've been told now, the email about the top up being cancelled now tells people to contact Customer Service but in September, this information wasn't there. It just said to log into my account and update my payment details, which I did. Because I didn't know about my top up having a block and having to contact customer service to remove it, I didn't know there was a problem.

What do you want to happen for your complaint to be resolved?

I am happy to pay for the tolls I owe, but I don't agree with the \$22.05 Administration Charge x 37 unpaid tolls.”

- 2 On 27 February 2014 the TCO acknowledged receipt of the email and forwarded same to Queensland Motorways (QML) for response.
- 3 QML responded directly to Miss LL, copied to the TCO, on 28 February 2014 as below. Miss LL responded promptly, endorsing her comments in purple text as follows:

“Thank you for your email, forwarded to Queensland Motorways from the Tolling Customer Ombudsman (TCO).

¹ All parties' submissions used in this Decision are quoted verbatim

I acknowledge that you are a **go via** account holder ([***248]) whose account has been previously suspended due to a failed automatic top-up resulting in insufficient credit, which contravenes the terms and conditions of your *pre-paid* account. We sent notifications regarding the status of your tolling account to remedy, yet the vehicles continued to travel on toll roads without valid means to pay.

I acknowledge that there have been interactions between yourself and Queensland Motorways, 2 of these interactions are discussions that took place with myself in customer relations on the 17th January 2014 and 17th February 2014.

Telephone discussion on the 17th January 2014 we discussed the following:

- I Re-confirmed the account suspension process that has been advised on a number of interactions with Queensland Motorways. *I was never told until recently there was a block on my account and therefore I couldn't do an automatic top up, even though I set it up online on the govia website.*
- I acknowledged that manual payments had been received on your go via account ([***248]), however this was only suffice to bring your account balance to a nil balance, with no extra credit to cover for future travel. These payments paid to your go via account ([***248]) were by accessing your go via account via our online website www.govia.com.au
- I advised of the methods we attempted to notify yourself regarding the status of your account via sms and email alert:
 - **Suspension Warning Sent:** – 21.06.2012
 - **Suspension Warning sms sent:** - 11.10.2013 and 28.10.2013
 - **Suspension Warning email alert sent:**
09.10.2012, 18.10.2012, 18.05.2013, 01.10.2013, 03.10.2013, 25.11.2013, 04.12.2013
 - **ACCOUNT SUSPENDED notification email alert:**
18.12.2012, 08.07.2013, 02.10.2013, 03.11.2013, 26.11.2013, 05.12.2013
 - **Payment failure email sent:** – 18.09.2013
 - **Payment Failure Letter Sent:** – 17.10.2012, 17.12.2012, 14.05.2013
- We discussed the usage of the tag: - *(you acknowledged that your tag was not mounted correctly to the windscreen, but on the dashboard of your vehicle) It was not on the dashboard the whole time, only a few times*
 - I advised that if the tag is mounted correctly then the beeps on the tag will assist with the status of your go via account
 - 1 Beep – confirming your toll has successfully charged to your account, and is above \$15.00 credit
 - 3 Beeps – this is indicating that your account has less than \$15.00 credit
 - 4 Beeps – this indicates that you have negative credit – and recommended to call immediately
 - No Beeps – it is ownership of the customer to contact us immediately to have this investigated
- I advised that it is QLD State law that a driver is liable for the toll when crossing, and where failing to pay tolls via a valid pass or Govia account then the

registered owner of the vehicle is eligible to receive an unpaid toll notice to their registered address that is registered with DTMR. I assumed the tolls would come out of my account and I had set up an automatic top up, which didn't work because of the block, which I knew nothing about

- I advised that the following notices were issued to the registered owners address at the time: *(where you responded that you had never received any prior notices until the notices that were issued on the 03.01.2014):*
 - **Administration notices issued** - 06.08.2012, 27.12.2012, 29.11.2013
 - **Administration notice Final Reminder** – 10.01.2013, 13.12.2013
 - **Demand notices issued** – 24.01.2013, 03.01.2014

- I was confirmed the many interactions with our call centre, where you have enquired on the outstanding balance for NAT reference ([***880]) vehicle registration [7***O], and had indicated that you would call back to make a payment, which was not received. I never said I was going to make a payment, I said I didn't have the money to pay the demand notices and I disputed the amount of the administration charge which you call a "demand fee" although it clearly says Administration charge on the demand notice
 - Phone Contact on NAT account [***880] 0001
 - 10.08.2012, 10.08.2012, 18.01.2013, 08.03.2013, 10.01.2013, 14.01.2013 and again with myself 17.01.2014.

- I advised that there are currently tolls on the NAT reference ([***880]) between 26.11.2013 – 20.12.2013, that have not yet incurred demand fees, but whilst it remains unpaid it will continue to go through the recovery process and may incur further fees and penalties *Send me a letter for them then*

- It was confirmed the balance that was outstanding for NAT reference ([***880]) at the time of the call was \$389.13 with Queensland Motorways.

- I offered to honour the 2 demand fees that were offered by the Team Leader that you had previously spoken to of \$44.10 if a payment of \$345.03 was made, I also offered to extend this for offer for a week. *However you were not in a position to take up the offer.*

- I suggested that if you were not able to take up the offer, then it was recommended to make regular payments of what she could afford towards the outstanding balance, to prevent part of the balance from going through the recovery process, but that this was not an arrangement.

- Your response after our discussion was *"I will let the outstanding balance escalate to SPER" I said I guess it will have to go to SPER even though I don't want it to, because I don't have \$389, I didn't then and I still don't*

Telephone discussion on the 17th January 2014 we discussed the following:

- On the 17.02.2014 after speaking to a Team Leader, you had requested to escalate this to Customer Relations, in which I returned your call the same day, and this was due to receiving further demand notices.

- The conversation on the 17.02.2014, was re-confirming what was discussed on the 17.01.2014, with additional enquiries you had and responded accordingly.
- You then advised that you had been reading on our website, and advised that prior to a demand notice an unpaid toll notice is to be issued and that you had not received any. I confirmed that the following had been issued:
 Just because you said you sent them, doesn't mean I received them. I moved on the 7th December 2013 so I guess that why I didn't receive the letters issue on the 13.12.13. And why was both an Unpaid Toll Notice and Final Reminder sent on the same day for pretty much the same days (tolls between 16.11.2013 - 21.11.2013)
 - **Unpaid Toll Notice issued** on the 13.12.2013 for the amount of \$35.37, with a due date of 09.12.2013 for tolls between 16.11.2013 to 21.11.2013 – (no payment was received before the due date)
 - **Final Reminder issued** on the 13.12.2013 for the amount of \$114.37, with a due date of 23.12.2013 for tolls between 16.11.2013 to 09.12.2013 – (no payment was received before the due date)
 - **Final Reminder issued** on the 24.01.2014 for the amount of \$137.66, with a due date of 04.02.2014, for tolls between (26.11.2013 – 20.12.2013) – (no payment was received before the due date)
- You queried why tolls that had been used on the same day, why some had charged to your account ([***248]), and some have now incurred a notice.
 - Example: you questioned a toll that was charged to your account for the 05.12.2013 and you also received a notice for a trip the same day.
 - I advised you that your go via account was not suspended until later that day, that it accepted that one toll prior to suspending your go via account ([***248]).
- As of the conversation on the 17.02.2014, I confirmed the balance for NAT reference ([***880]) vehicle registration [7***O] was \$964.89.
- You asked what would happen now, I advised that it will continue to go through the recovery process, and where demand fees have not been paid by the due date, this will then be subject to state penalties of up to \$154 and then to sper.

Queensland Motorways is deemed to have;

- a) Searched and attempted to apply the tolls to a valid account/pass to avoid toll notices within 3 days of travel
- b) Failed to locate a valid account/pass as a result of a failed agreement by the account holder
- c) Legitimately issued all toll notices in accordance with the law
- d) Correctly issued all toll notices to the address the registered owner has supplied under the Registration Act
- e) Included on the toll notices that the amount on the notice is to be remedied in addition to a top up on the **go via** account if suspension related

As such please understand that we are not obliged under any circumstances to neither provide any reduction, waiver nor accept a payment plan suited to your financial capacity.

We are legally obligated to notify the State when payments for your Demand Notices are not received in full by the due date.

As this time has lapsed you will also be subject to further State issued Infringements of \$154.00 for each Demand Notice you fail to comply to.

These Infringements are further enforceable by the State Penalties Enforcement Register (SPER) and may result in the loss of your licence.

As of this response the outcome remains the same, and I recommend that you take necessary action to protect your interests, as the matter can only be resolved by your payment.”

4 On 5 March 2014 QML responded to Miss LL:

“I confirm receipt of your email to our department below.

As per your response:

“I said I guess it will have to go to SPER even though I don't want it to, because I don't have \$389, I didn't then and I still don't”

You have confirmed you are in no position to pay hence we do not have further to discuss, as all options have been provided to you.

Our response remains unchanged as we have provided evidence that you failed to maintain your tolling account in an appropriate manner, but continued to travel on toll roads without a valid arrangement.

You may now seek a response from the TCO so that he may consider your version of events as well as the records we have provided.”

5 On 3 April 2014 Miss LL emailed the TCO:

“I haven't heard back about this. I'm not happy with Queensland Motorways/Go Via's response.”

6 To which the TCO responded to Miss LL on 6 April 2014, copied to QML:

“I acknowledge receipt of your email and note its contents. I need you to be more specific to the responses from go via.”

7 Miss LL responded to the TCO on 14 April 2014:

“I have already stated that I was unaware a block was on my account, so when I got notices of suspension from GoVia, which instructed me to update my payment details by logging into govia.com.au and make an immediate recommended payment. I did this every time, I logged into Govia, made sure my payment details were up to date, and paid any tolls I owed. The email states "What do I need to do? Reactivate your account now by: logging into your account at govia.com.au making an immediate recommended payment of (outstanding and \$50 recommended top up) to cover future tolls. (See attached emails)

I did log in to govia.com.au and paid the following amounts:

From Statement period 01 Oct - 31 Dec 2013

[**874] 02 Oct 13 Manual Top-up Fee 1.10

[942] 02 Oct 13 Payment Received Thank-you 20.90 cr**

[018] 22 Nov 13 Payment Received Thank-you 21.20 cr**

[**048] 25 Nov 13 Manual Top-up Fee 1.10

[**594] 04 Dec 13 Manual Top-up Fee 1.10

[904] 04 Dec 13 Payment Received Thank-you 30.00 cr**

The statement issued on 1st January 2014 states that I have a pre-paid account with automatic top up.

And during the statement period 1 Jan - 31 March 2014, I made the following payments.

[762] 08 Jan 14 Payment Received Thank-you 25.00 cr**

[**496] 09 Jan 14 Manual Top-up Fee 1.10

[**050] 14 Feb 14 Manual Top-up Fee 1.10

[287] 14 Feb 14 Payment Received Thank-you 10.00 cr**

[**989] 19 Feb 14 Manual Top-up Fee 1.10

[629] 19 Feb 14 Payment Received Thank-you 4.00 cr**

[**146] 26 Feb 14 Manual Top-up Fee 1.10

[901] 26 Feb 14 Payment Received Thank-you 25.00 cr**

[949] 26 Feb 14 Payment Received Thank-you 20.26 cr**

[811] 03 Mar 14 Payment Received Thank-you 25.00 cr**

[794] 12 Mar 14 Payment Received Thank-you 25.00 cr**

[097] 19 Mar 14 Payment Received Thank-you 25.00 cr**

[950] 25 Mar 14 Payment Received Thank-you 25.00 cr**

[278] 29 Mar 14 Payment Received Thank-you 25.00 cr**

[939] 30 Mar 14 Payment Received Thank-you 25.00 cr**

So I thought I was doing the right thing by logging into Govia.com.au, and paying tolls owing. I didn't know about the block, so even though my payment details were correct, and my statement said I had automatic top up, because there was a block on my account that had to be removed by a customer service officer, my automatic top ups weren't happening. And I was busy at the time and didn't think much of it. I felt since I was paying my tolls and doing what the emails asked me to do, I was doing the right thing. Nowhere in the emails does it say to contact Customer Service to have the block removed. Since the tolls were being added to my account and I was paying for them, I didn't see there was a problem.

Govia haven't provided me with any options. I was willing to pay for the tolls I incurred but didn't agree with the administration charge (which they call a default fee but it clearly states on the Demand Notice for Non Payment of Toll that is is an administration charge of \$22.05) They say I didn't have a valid arrangement but as far as I was aware, I did have a valid arrangement. My payment details were set up on Govia.com.au, and I was paying my tolls by logging into govia.com.au, which they told me to do in their emails.

As to what GoVia say and my responses,

QM/GoVia: I Re-confirmed the account suspension process that has been advised on a number of interactions with Queensland Motorways.

I was never told until recently there was a block on my account and therefore I couldn't do an automatic top up, even though I set it up online on the govia website.

-QM/GoVia: I advised of the methods we attempted to notify yourself regarding the status of your account via sms and email alert:

- o Suspension Warning Sent: – 21.06.2012
- o Suspension Warning sms sent:- 11.10.2013 and 28.10.2013
- o Suspension Warning email alert sent:
09.10.2012, 18.10.2012, 18.05.2013, 01.10.2013, 03.10.2013, 25.11.2013, 04.12.2013
- o ACCOUNT SUSPENDED notification email alert:
18.12.2012, 08.07.2013, 02.10.2013, 03.11.2013, 26.11.2013, 05.12.2013
- o Payment failure email sent: – 18.09.2013
- o Payment Failure Letter Sent: – 17.10.2012, 17.12.2012, 14.05.2013

I am aware I was notified but as stated, I did what the emails told me to do

-QM/GoVia: We discussed the usage of the tag: *-(you acknowledged that your tag was not mounted correctly to the windscreen, but on the dashboard of your vehicle)*

I said it was on the dashboard only a few times, another example of Govia twisting my words

- o I advised that if the tag is mounted correctly then the beeps on the tag will assist with the status of your go via account
- o 1 Beep – confirming your toll has successfully charged to your account, and is above \$15.00 credit
- o 3 Beeps – this is indicating that your account has less than \$15.00 credit
- o 4 Beeps – this indicates that you have negative credit – and recommended to call immediately
- o No Beeps – it is ownership of the customer to contact us immediately to have this investigated

I can't remember if it beeped or not, this was from over 3 months ago

QM/Go Via: I advised that it is QLD State law that a driver is liable for the toll when crossing, and where failing to pay tolls via a valid pass or Govia account then the registered owner of the vehicle is eligible to receive an unpaid toll notice to their registered address that is registered with DTMR.

I assumed the tolls would come out of my account and I had set up an automatic top up, which didn't work because of the block, which I knew nothing about

QM/Go Via: I confirmed the many interactions with our call centre, where you have enquired on the outstanding balance for NAT reference ([***880]) vehicle registration

[7***O], and had indicated that you would call back to make a payment, which was not received.

I never said I was going to make a payment, I said I didn't have the money to pay the demand notices and I disputed the amount of the administration charge which you call a "demand fee" although it clearly says Administration charge on the demand notice. Govia twisting my words again

-QM/GoVia: I offered to honour the 2 demand fees that were offered by the Team Leader that you had previously spoken to of \$44.10 if a payment of \$345.03 was made, I also offered to extend this for offer for a week. *However you were not in a position to take up the offer.*

I didn't have the money to pay this and since I was disputing it, didn't believe I should pay it

-QM/GoVia: Your response after our discussion was *"I will let the outstanding balance escalate to sper"*

I said I guess it will have to go to SPER even though I don't want it to, because I don't have \$389, I didn't then and I still don't"

- 8 The TCO acknowledged receipt of the above response and forwarded same to QML for response.
- 9 On 16 April 2014 the following correspondence, copied to the TCO, ensued between QML and Miss LL. All attachments are on file.

QML to Miss LL:

"Thank you for your email, forwarded to Queensland Motorways from the Tolling Customer Ombudsman (TCO).

You have advised that you were not aware that your payment had dishonoured and that there was a block, however we had sent out on the following dates payment failure letter and email notification to advise there was an issue with the automatic payments we had attempted. It would be assumed that the email notification would have been received as you have received the attached notifications that you have provided.

- 14.05.2013 Payment Failure Letter Sent to [residential address]
- 18.09.2013 Payment Failure Email Sent to [email address]

The attached notifications advise you your account is suspended and clearly states the below extract highlighted in yellow, *that if continue travel was to be used whilst your account is suspended that you would be at risk and subject to separate notices for travel as well as administration fees.* The notifications also provided an amount that is recommend to be paid, however whilst payments were made to your pre-paid go via between October 2013 to February 2014, the payments were only suffice

enough to cover what was owing on the pre-paid account at the time and no additional credit was added to cover future tolls.

Dear [Ms LL]

go via account [***248]

Your pre-paid go via account is now suspended. If you continue to travel on toll roads while your account is suspended you will need to make another payment arrangement for travel, otherwise: we will send you a toll notice for each toll that includes administration fees + outstanding tolls, for travel on our motorways other toll road operators will issue you with a toll notice for each toll that includes administration fees + outstanding tolls, for travel on other toll roads. **What do I need to do?** Reactivate your account now by: logging into your account at govia.com.au making an immediate recommended payment of \$74.62 (outstanding balance + \$50 recommended top-up) to cover future tolls.

If you have recently made a payment to your account and have restored it to a positive balance, we recommend you increase your top-up amount to avoid account suspension in the future.

The tolls that are outstanding on **NAT reference ([***880])** are for travel between November 2013 to December 2013, where your pre-paid account had insufficient funds to accept the travel to your account ([***248]), it is clear notifications were sent as per attachments you confirm received notifying you regarding the status of your account. The attachment also advises that whilst your account is suspended from the date of suspension no further travel would be accepted to your pre-paid account, however travel through the toll points continued.

Interactions between yourself and Queensland Motorways indicate you were advised that your account had been suspended due to dishonoured payments, however due to your dispute of the additional fees incurred for NAT reference ([***880]) there is no indication that you requested to re-active your automatic payment. It would also indicate that your automatic payment was not in place when you would log in to your account online and would process manual payments where you would incur the manual top up fee of \$1.10, it would also reflect against your bank institution statements that there are no weekly debits from Queensland Motorways.

Queensland Motorways have attempted on many occasions to advise you regarding the status of your pre-paid go via account ([***248]), as well as notices being issued from NAT reference ([***880]) to the registered owners address that was listed with the Department of Transport and Main Roads (DTMR).

Our response remains un-changed and the full balance for **NAT reference ([***880]) vehicle registration [7***O] of \$1397.09** remains outstanding with Queensland Motorways and will continue to go through the recovery process where further fees and penalties may incur on the balance that remains outstanding.

I recommend to protect your interest, that you contact PROBE Collections to discuss your payment options for the outstanding balance, as the matter can only be resolved by your payment.”

Miss LL to QML:

“Thank you for your email, forwarded to Queensland Motorways from the Tolling Customer Ombudsman (TCO).

You have advised that you were not aware that your payment had dishonoured and that there was a block, however we had sent out on the following dates payment

failure letter and email notification to advise there was an issue with the automatic payments we had attempted. It would be assumed that the email notification would have been received as you have received the attached notifications that you have provided.

I don't believe I have the letter from May 2013 and I can't remember what it said but in the email from 18/09/13, it never mentioned that a block was put on my account. I never said I wasn't aware that the payment was dishonoured. What I said was, I didn't know there was a block on my account so even though I logged into Govia.com.au and made sure my payment details were correct and an automatic top up was set up, which is what the emails told me to do; because there was a block that I had to contact Customer Service to remove, the automatic top up would never work. That is why I did a manual top up.

- 14.05.2013 Payment Failure Letter Sent to [residential address]
- 18.09.2013 Payment Failure Email Sent to [email address]

The attached notifications advise you your account is suspended and clearly states the below extract highlighted in yellow, *that if continue travel was to be used whilst your account is suspended that you would be at risk and subject to separate notices for travel as well as administration fees*. The notifications also provided an amount that is recommend to be paid, however whilst payments were made to your pre-paid go via between October 2013 to February 2014, the payments were only suffice enough to cover what was owing on the pre-paid account at the time and no additional credit was added to cover future tolls.

The emails also says; to REACTIVATE MY ACCOUNT, log in to govvia.com.au, make an immediate payment of amount owing and RECOMMENDED TOP UP. It doesn't say I had to make a payment more than I owed, it was RECOMMENDED.

Dear [Ms LL]

go via account [***248]

Your pre-paid go via account is now suspended. If you continue to travel on toll roads while your account is suspended you will need to make another payment arrangement for travel, otherwise: we will send you a toll notice for each toll that includes administration fees + outstanding tolls, for travel on our motorways other toll road operators will issue you with a toll notice for each toll that includes administration fees + outstanding tolls, for travel on other toll roads. **What do I need to do?** Reactivate your account now by: logging into your account at govia.com.au making an immediate recommended payment of \$74.62 (outstanding balance + \$50 recommended top-up) to cover future tolls.

If you have recently made a payment to your account and have restored it to a positive balance, we recommend you increase your top-up amount to avoid account suspension in the future.

The tolls that are outstanding on **NAT reference ([***880])** are for travel between November 2013 to December 2013, where your pre-paid account had insufficient funds to accept the travel to your account ([***248]), it is clear notifications were sent as per attachments you confirm received notifying you regarding the status of your account. The attachment also advises that whilst your account is suspended from the date of suspension no further travel would be accepted to your pre-paid account, however travel through the toll points continued.

Interactions between yourself and Queensland Motorways indicate you were advised that your account had been suspended due to dishonoured payments, however due to your dispute of the additional fees incurred for NAT reference ([***880]) **there is no indication that you requested to re-active your automatic**

payment. **I didn't know I had to.** It would also indicate that your automatic payment was not in place when you would log in to your account online and would process manual payments where you would incur the manual top up fee of \$1.10, it would also reflect against your bank institution statements that there are no weekly debits from Queensland Motorways.

There was no automatic top up because there was a block that had to be removed by Customer Service, which I didn't know about. I'm getting really sick and tired of repeating myself.

Queensland Motorways have attempted on many occasions to advise you regarding the status of your pre-paid go via account ([***248]), as well as notices being issued from NAT reference ([***880]) to the registered owners address that was listed with the Department of Transport and Main Roads (DTMR).

I followed the instructions in the emails so thought I was doing the right thing.

Our response remains un-changed and the full balance for *NAT reference ([***880]) vehicle registration [7***O] of \$1397.09* remains outstanding with Queensland Motorways and will continue to go through the recovery process where further fees and penalties may incur on the balance that remains outstanding.

I recommend to protect your interest, that you contact PROBE Collections to discuss your payment options for the outstanding balance, as the matter can only be resolved by your payment.”

QML to Miss LL:

“Thank you for your email.

As you have confirmed you were in receipt of the payment failure letter that was sent via email dated 18.09.2013, I refer the following points highlighted in yellow:

- You will need to manually top up – each manual top-up incurs a fee of \$1.10, in addition to your tolls
You have processed manual payments each time since your payment had dishonoured, where a manual top up fee was charged each time – which indicates that it was on manual top up
- The notification sent on the 18.09.2013 also advises:
 1. *Pay your balance + additional \$25 minimum to keep a positive balance*
 2. **Reinstating** the automatic top-up with the correct credit card / bank account details
there is no interaction to show that an attempt to re-instate your automatic payment was done on line since the payment notification alert was issued on the 18.09.2013 or requested Queensland Motorways to re-instate this until a conversation dated 26.02.2014.

Account [***248]

The automatic top-up on your pre-paid account has failed. As we have not been able to process your payment:

- your automatic top-up has been removed
- you will need to manually top-up – **each manual top-up incurs a fee of \$1.10**, in addition to your tolls
- your account could be suspended.

As per our Terms and Conditions, if your pre-paid account does not retain a positive balance, you may also incur fees and charges in addition to the unpaid tolls.

Avoid account suspension by:

- **paying your balance + an additional 425 minimum, to keep a positive balance**
- **reinstating the automatic top-up** with the correct credit card/bank account details.

Login now at govia.com.au and select "Manage account details" to update your payment details.

The payment failure notification was issued to you on the 18.09.2013, your pre-paid go via account ([***248]) was not accessed on line until the 02.10.2013. The balance that was outstanding at this time was \$22.00, where a payment of \$20.90 was processed and left a balance of \$1.10 outstanding (manual top up fee)."

Miss LL to QML:

"As you have confirmed you were in receipt of the payment failure letter that was sent via email dated 18.09.2013, I refer the following points highlighted in yellow:

- You will need to manually top up – each manual top-up incurs a fee of \$1.10, in addition to your tolls

You have processed manual payments each time since your payment had dishonoured, where a manual top up fee was charged each time – which indicates that it was on manual top up

I did manually top up, which is what the email said to do. "you will need to manually top up— each manual top-up incurs a fee of \$1.10, in addition to your tolls"

From Statement period 01 Oct - 31 Dec 2013

*[***874] 02 Oct 13 Manual Top-up Fee 1.10*

*[***942] 02 Oct 13 Payment Received Thank-you 20.90 cr*

*[***018] 22 Nov 13 Payment Received Thank-you 21.20 cr*

*[***048] 25 Nov 13 Manual Top-up Fee 1.10*

*[***594] 04 Dec 13 Manual Top-up Fee 1.10*

*[***904] 04 Dec 13 Payment Received Thank-you 30.00 cr*

- The notification sent on the 18.09.2013 also advises:

1. *Pay your balance + additional \$25 minimum to keep a positive balance* **All other emails say "Recommended top up"**

2. **Reinstating** the automatic top-up with the correct credit card / bank account details

there is no interaction to show that an attempt to re-instate your automatic payment was done on line since the payment notification alert was issued on the 18.09.2013 or requested Queensland Motorways to re-instate this until a conversation dated 26.02.2014.

I regularly logged into govias.com.au to try and reinstate my automatic top up. I went to the payment options area, and clicked on Edit, and chose Top Up Method - Automatic and saved my bank account details. I don't have a record

of this so it's my word against yours but I'm sure someone with IT knowledge might be able to find something on your servers.

Account [***248]

The automatic top-up on your pre-paid account has failed. As we have not been able to process your payment:

- your automatic top-up has been removed
- you will need to manually top-up – **each manual top-up incurs a fee of \$1.10**, in addition to your tolls
- your account could be suspended.

As per our Terms and Conditions, if your pre-paid account does not retain a positive balance, you may also incur fees and charges in addition to the unpaid tolls.

Avoid account suspension by:

- **paying your balance + an additional 425 minimum, to keep a positive balance**
- **reinstating the automatic top-up** with the correct credit card/bank account details.

Login now at govia.com.au and select "Manage account details" to update your payment details.

The payment failure notification was issued to you on the 18.09.2013, your pre-paid go via account ([***248]) was not accessed on line until the 02.10.2013. The balance that was outstanding at this time was \$22.00, where a payment of \$20.90 was processed and left a balance of \$1.10 outstanding (manual top up fee).

This is besides the point, its just going around and around in circles. You highlighting things and saying the same thing over and over isn't helping."

- 10** Following this exchange of correspondence, Miss LL requested the TCO's intervention to bring the matter to a resolution. Additionally, QML emailed the TCO in the following terms:

"I request that you please provide commentary to [Miss LL] on her complaint

Attached are the responses that have been provided to [Miss LL].

I have provided all the information that I can to assist [Miss LL] and summarise the following:

- [Miss LL] is in dispute of the fees that have been incurred
- Fees have been incurred due to dishonoured payment on her pre-paid go via account, causing Account suspension
- I have provided information where alerts and notices have been issued to alert her of the status of her pre-paid go via account and notices issued for NAT (no arrangement travel)
- Evidence is attached to confirm that [Miss LL] has received alert notifications regarding account suspension and payment failure

Go via have investigated the following:

- There are no interactions to display that [Miss LL] accessed her account on line to attempt to re-active her automatic payment
- There are no interactions with the call centre to indicate [Miss LL] had requested to re-activate her automatic top up until interaction dated 26.02.2014
- Payments have been made to her go via account, however this was only suffice to clear the balance owing on the pre-paid account with no additional credit for future travel

- Alerts issued to advise account suspension and yet travel continued when there was insufficient credit on the pre-paid account

I request that an independent assessment be made by the TCO's office so all parties may come to an understanding of the matter."

11 On 16 April 2014 the TCO notified both parties that a Decision will be provided.

Decision

12 The objective of the TCO is to resolve complaints, which fall within its jurisdiction, between toll road operators and their customers efficiently, fairly and without charge to the customer. In attaining this objective the focus is to look at the issues that are relevant to the resolution of the complaint between the toll road operator and its customer.

13 This is done in the context of the circumstances of the complaint, any terms of the use of toll roads and legal requirements. Relevant terms are contained in the Customer Service Agreement, on a toll road operator's website or in other material that is available to customers, whilst the applicable legislation can be accessed through Government websites.

14 The TCO is not a judicial body and does not have punitive powers. The TCO, when making a decision, does so on the basis of what it considers fair in the circumstances, taking into account the effect of a decision on each party and any public interest. The TCO only has jurisdiction over the conduct of toll road operators and cannot determine matters in relation to allegations against other outside bodies.

15 This is a matter in which there has been considerable interaction between Go Via and Mr LL since her pre-paid account was suspended but she continued to travel on the toll roads whilst it was suspended. Her situation was summed up by Go Via when it said:

"...I acknowledge that you are a **go via** account holder ([***248]) whose account has been previously suspended due to a failed automatic top-up resulting in insufficient credit, which contravenes the terms and conditions of your pre-paid account. We sent notifications regarding the status of your tolling account to remedy, yet the vehicles continued to travel on toll roads without valid means to pay."

16 Before her account was suspended, according to a representative of QML/Go Via in correspondence to Ms LL:

"..I advised of the methods we attempted to notify yourself regarding the status of your account via sms and email alert:

- Suspension Warning Sent: – 21.06.2012
- Suspension Warning sms sent:- 11.10.2013 and 28.10.2013
- Suspension Warning email alert sent:

09.10.2012, 18.10.2012, 18.05.2013, 01.10.2013, 03.10.2013, 25.11.2013, 04.12.2013

○ ACCOUNT SUSPENDED notification email alert:

18.12.2012, 08.07.2013, 02.10.2013, 03.11.2013, 26.11.2013, 05.12.2013

○ Payment failure email sent: – 18.09.2013

○ Payment Failure Letter Sent: – 17.10.2012, 17.12.2012, 14.05.2013”

17 Ms LL, as a consequence of her failure to regularise her account by paying outstanding tolls and continuing to drive on the toll road, received late payment notices and incurred administration fees in respect of each notice. Ms LL says that she acted in accordance with notices sent to her by making payments to her account to regularise her account.

18 Ms LL then went on to manual top up for the travel on the toll road and she has provided details of some transactions. It is apparent, however, from the evidence that she did not reinstate her suspended account after the 18 September 2013 payment failure alert and, according to Go Via, did not attempt to do so until 26 February 2014.

19 The balance owing on the account was then \$964.89. According to Go Via, the amount owing under the account is now \$1,397.09 as a consequence of the incurring of substantial additional fees. This matter could have been resolved by a payment of \$389.13 at one stage but Ms LL did not take up the option. I understand that Ms LL is meeting her obligations with Go Via for current travel but, in addition to denying liability for fees, says that she does not have the capacity to pay them.

20 I am satisfied that Go Via’s following submission summed up the situation in this matter:

“There are no interactions to display that [Miss LL] accessed her account on line to attempt to re-active her automatic payment

There are no interactions with the call centre to indicate [Miss LL] had requested to re-activate her automatic top up until interaction dated 26.02.2014

Payments have been made to her go via account, however this was only suffice to clear the balance owing on the pre-paid account with no additional credit for future travel

Alerts issued to advise account suspension and yet travel continued when there was insufficient credit on the pre-paid account”

21 I find that I am satisfied that Ms LL has breached her obligations as an accountholder with Go Via that has led to a debt which, in the main, is now made up of administration fees. I am not satisfied that there were grounds to believe that she may have been confused in respect to the payment regime and obligations. In addition to telephone discussions, there were written communications setting out her payment options or requirements which I believe are clear. For example, this message was sent to her, amongst others:

Dear [Ms LL]

go via account [***248]

Your pre-paid go via account is now suspended. If you continue to travel on toll roads while your account is suspended you will need to make another payment arrangement for travel, otherwise: we will send you a toll notice for each toll that includes administration fees + outstanding tolls, for travel on our motorways other toll road operators will issue you with a toll notice for each toll that includes administration fees + outstanding tolls, for travel on other toll roads. **What do I need to do?** Reactivate your account now by: logging into your account at govia.com.au making an immediate recommended payment of \$74.62 (outstanding balance + \$50 recommended top-up) to cover future tolls.

If you have recently made a payment to your account and have restored it to a positive balance, we recommend you increase your top-up amount to avoid account suspension in the future.

- 22 I must act on the evidence before me. Despite Ms LL's assertions that she had interacted with the Go Via system to reactivate her automatic top up, there is no evidence that she did so until 26 February 2014 and she had failed to bring herself into credit for future travel prior to that date. In these circumstances she incurred the Go Via fees because her account was not in order.
- 23 I find that Ms LL is liable to pay to Go Via the outstanding fees.
- 24 However, I believe that a goodwill gesture by Go Via/QML to reverse the additional Demand Notice Fees, (to the value of \$432.20) as applied on 11 March 2014, to resolve the dispute, by payment of \$964.89 instead of the full balance of \$1,397.09, would be a fair resolution of this matter.
- 25 I recommend that Ms LL make immediate arrangements for payment of \$964.89.

Michael Arnold
Tolling Customer Ombudsman

Dated: 29 May 2014