



A•S•U

File/Our Ref: [DS/db 10.4, 12.21, D2015/53](#)
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Please quote in reply

Tuesday May 26, 2015

General Manager
Fair Work Commission
GPO Box 1944
MELBOURNE VIC 3001

By E-mail: orgs@fwc.gov.au

**Australian
Services
Union**

**National Office
Melbourne & Sydney**

All correspondence to:

Ground Floor
116 Queensberry St
Carlton South VIC 3053

T: (03) 9342 1400
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E: info@asu.asn.au
W: www.asu.asn.au

National Secretary
David Smith

Assistant National Secretaries
Greg McLean
Linda White

Dear Sir/Madam

Re: D2015/53 - Withdrawal of an Application by the ASU, Australian Municipal, Administrative, Clerical and Services Union for an Alteration to Eligibility Rules

Please find attached an Application for Withdrawal of an Application by the Australian Services Union for consent to an alteration to its Eligibility Rules in matter: D2015/53.

The Withdrawal is by way of the attached Form F1 signed by the authorised National Officer, and the attached declaration that the withdrawal was made in accordance with the Rules stating the actions taken under the Rules and verifying the facts stated in the application.

The appropriate official to contact at the ASU is Michael Rizzo email mrizzo@asu.asn.au or 03) 9342 1440.

Yours faithfully

David Smith
National Secretary

Tel: +61 3 9342 1401
Mobile: 0419 644 238
E-mail: dsmith@asu.asn.au

encl : Form F1
Withdrawal Declaration
Annexure A1
Annexure A2

Form F1—Application (No Specific Form Provided)

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

IN FAIR WORK COMMISSION*FWC use only***FWC Matter No.: D2015/53****NOTICE OF WITHDRAWAL**

This is an application to the Fair Work Commission.

The Applicant

These are the details of the person who is making the application.

Title	[X] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)	David		
Surname	Smith		
Postal address	Ground Floor, 116-124 Queensberry Street		
Suburb	Carlton South		
State or territory	VIC	Postcode	3053
Phone number	03 9342 1400	Fax number	03 9342 1499
Email address	info@asu.asn.au		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	Australian Municipal, Administrative, Clerical and Services Union
Trading name of business	
ABN/ACN	28 519 971 998
Contact person	Michael Rizzo

How would you prefer us to communicate with you? Email (you will need to make sure you check your email account regularly) Post**Does the Applicant have a representative?**

A representative is a person or business who is representing the Applicant. This might be a lawyer, a union or a family member or friend who will speak on behalf of the Applicant. There is no requirement to have a representative.

 Yes—Provide representative's details below No

1. The Application

1.1 Please set out the provision(s) of the [Fair Work Act 2009](#) (or any other relevant legislation) under which you are making this application.

Regulation 123 Fair Work (Registered Organisations) Regulations 2009.

2. Order or relief sought

2.1 Please set out the order or relief sought.



Using numbered paragraphs, set out what you are asking the Commission to do.

Withdrawal of Application for alteration of eligibility rules re: D2015/53.

2.2 Please set out grounds for the order or relief sought.



Using numbered paragraphs, set out the grounds, including particulars, on which you are seeking the relief set out in question 2.1.

1. The reason for the withdrawal of the application for alteration of eligibility rules is that due to technical errors in the application, the National Secretary decided to ask the ASU National Executive to formally withdraw the application, in accordance with Rule 49.
2. The decision to withdraw the application was the subject of a Postal/Facsimile/Email Vote of the ASU National Executive declared on 22 May 2015 as follows:

“That in accordance with Regulation 123 of the Fair Work (Registered Organisations) Regulations 2009 National Executive resolves to withdraw the application and then lodge a formal withdrawal application with Fair Work Commission in D2015/53”.

3. The employer

3.1 What is the industry of the employer?

N/A

4. Industrial instrument(s)

4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.

N/A

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	David Smith
Date	Tuesday May 26, 2015
	Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the Capacity/Position section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

**APPLICATION FOR CONSENT TO THE ALTERATION OF ELIGIBILITY
RULES OF AN ORGANISATION**

Fair Work (Registered Organisations) Act 2009

Fair Work (Registered Organisations) Regulations 2009—paragraph 121(1)(b)

WITHDRAWAL DECLARATION

I, David Smith, of 116-124 Queensberry Street, Carlton South in the State of Victoria declare as follows:

- A. The Australian Municipal, Administrative, Clerical and Services Union (“ASU”) is an organisation registered under the *Fair Work (Registered Organisations) Act 2009*.
- B. I am the National Secretary of the ASU and am authorised to make this Declaration.
- C. The National Executive of the ASU has resolved to withdraw its application for consent to the alteration of Eligibility Rules in D2015/53 to amend PART XXI and add a new PART XXVIII to sub-rule 5b Eligibility for Membership as follows:

“Recommendation:

National Executive resolves pursuant to Rule 49 to approve the alteration of the eligibility rules of rule 5 - INDUSTRY AND ELIGIBILITY by amending PART XXI and by adding a new PART XXVIII of sub rule 5 b as follows:

1. Amend Rule 5 b. PART XXI by deleting the following employers in paragraph 2:

ETSA Corporation
ETSA Power Pty Ltd
ETSA Utilities Pty Ltd
Transmission Lessor Corporation - (Trading as ElectraNet SA)
SA Generation Corporation

2. Amend Rule 5 b. Part XXI by adding “(a)” to paragraph 2 and inserting the following new employers:

- (a) • SA Power Networks
 - Electranet Pty Ltd
 - AGL Energy
 - Alinta Energy
 - International Power Ltd/GDF Suez
 - Energy Australia Pty Ltd (formerly TRUENERGY Pty Ltd)
 - Origin Energy Ltd
 - ATCO Australia Pty Ltd
 - Osborne Co-generation Pty Ltd, South Australia
 - Infigen Energy Ltd
 - AGL Hydro
 - Infratil Energy Australia Pty Ltd
 - Meridian Energy Australia
 - Pacific Hydro Pty Ltd
 - RATCH Australia Corporation Ltd
 - Flinders Operating Services Pty Ltd
 - Envestra Ltd

3. Amend Rule 5 b. Part XXI by deleting paragraph 3 commencing with the words “hereinafter.....”.

4. **Amend Rule 5 b. Part XXI by deleting paragraphs 4 to 12 ending in the words “....immediate or not;”.**
5. **Amend Rule 5 b. PART XXI by deleting paragraph 14 commencing with the words “Provided that,”.**
6. **Amend Rule 5 b. Part XXI by deleting paragraph 15 commencing with the words “joint venture,”.**
7. **Amend Rule 5 b. PART XXI by deleting the word “and” in paragraph 16.**
8. **Amend Rule 5 b. Part XXI by inserting a new paragraph (“the primary employers”) after the new PART XXI (a).**
9. **Amend Rule 5 b. Part XXI by inserting the following new paragraphs (b) to (f):**
 - (b) or any subsidiary or joint venture of any of the primary employers;
 - (c) or any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;
 - (d) or any or joint subsidiary or joint venture of any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;
 - (e) or any employer:
 - i. resulting from one primary employer taking over or otherwise acquiring the business or part of the business of another primary employer; or
 - ii. being a related body corporate to a primary employer within the meaning of the Corporations Law; or
 - iii. resulting from a series of relationships that can be traced between it and a primary employer under paragraph i or ii;

provided that the employers referred to in sub-paragraphs (b) to (e) are performing a substantial part of the same activities in or in connection with the South Australian power industry, as were performed by the primary employers and the employees of the employers referred to in sub-paragraphs (b) to (e) are performing some or all of the activities which were undertaken by the employees of the primary employers;
 - (f) or any other employer that under contract, lease, labour hire or outsourcing arrangement undertakes works, operations, functions, or services undertaken previously by a primary employer or undertaken previously by any successor, assignee or transferee whether immediate or not to the business or part of the business of a primary employer;
10. **Amend Rule 5 b Part XXI by a new paragraph immediately following sub paragraph (f) “shall be eligible to be members of the Union;”**
11. **Amend Rule 5 b Part XXI by deleting paragraph 18 commencing with the words “Note 1:”.**
12. **Add to Rule 5 b a new PART XXVIII as follows:**

PART XXVIII

Employees within the State of South Australia engaged in the generation, transmission, distribution and/or retailing of electricity in administrative, clerical, technical, engineering, scientific, professional, supervisory, managerial and operational classes of work; shall be eligible to be member of the Union provided that:

employees eligible to be members of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Workers union pursuant to its eligibility rules as at 2 October 2000 and/or employees of the electrical and communications contractors who are employed and/or classified as general skilled workers as defined in the ETSA (Interim) Awards Award 1990 or who perform line tree clearance work or employees whose employment requires electrical skills as a requirement for their

work and to perform electrical trades work, electrical mechanical work, electrical trade work, electrical trade assistants work, electrical fitting work, electrical mechanical work, electrical/electronic cable jointing work, powerline trade skilled work, electrical meter repair work, mechanical trades work co-ordinate work teams as an ancillary function to their performance of any of the above primary work shall not eligible to be members of the Union;

and provided further that under this Part employees who are eligible to be members of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union of Australia (the AMWU) and who are performing mechanical and fabrication tradesperson or trade assistants work shall not be eligible to be members of the Union.

13. To authorise the National Secretary to make any necessary amendments to these proposed rules that may be required to ensure that they are:
 - (a) effective at law; and
 - (b) consistent and typographically correct, provided that any such amendments are not inconsistent with the intention of the proposed rules.
14. National Executive authorises the National Secretary to submit the new proposed rule alterations to the Fair Work Commission for certification.”

The action taken pursuant to the ASU rules to withdraw the application was as follows:

- D. The manner in which compliance with the rules of the ASU was obtained is as follows: I confirm that on **19 May 2015**, in accordance with rule 49 I submitted a withdrawal of the Application for Consent to Alteration to the rules recommendation to the National Executive.
- E. On the **19 May 2015** in accordance with sub-rule 8j a Postal/Facsimile/Email Vote was submitted to all National Executive members via email the attached “Proposed National Rule Change re South Australian Energy Industry” and marked **Annexure A1**. This included a recommendation to withdraw the original application contained in D2015/53.
- F. On the **22 May 2015**, the ASU National Executive through an Postal/Facsimile/Email Vote carried the following recommendation:

“That in accordance with Regulation 123 of the Fair Work (Registered Organisations) Regulations 2009 National Executive resolves to withdraw the application and then lodge a formal withdrawal application with Fair Work Commission in D2015/53.”
- G. A total of 138 affirmative votes were received. Of the total of 138 votes allocated to members of the National Executive in accordance with sub-rule 8c, I declared the vote carried pursuant to sub-rule 8j of the rules of the ASU. Attached hereto and marked **Annexure A2** is a copy of my correspondence to National Executive members of the **22 May 2015** declaring the result of the ballot.
- H. The withdrawal of the application for consent to alteration to the rules was made in accordance with the rules of the organisation in particular Rule 49.
- I. Pursuant to Regulation 126(1)(b) the notice for this rule alteration has been published on the ASU website and can be viewed at www.asu.asn.au/about/rules.
- J. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

DATED: Tuesday 26 May, 2015



.....
DAVID SMITH
National Secretary
Australian Municipal, Administrative, Clerical and Services Union



A•S•U

File/Our Ref: [DS/db 10.4, 12.21 & D2015/53](#)
Your Ref:
Please quote in reply

Tuesday 19 May, 2015

TO: All National Executive Members
as addressed

By E-mail

Dear National Executive Member

**Postal/Fax/Email Vote No. 05/2015
Proposed National Rule Change re South Australian Energy Industry**

The Regulatory Compliance Branch of Fair Work Commission has identified drafting problems with the ASU's application to alter the eligibility rules in relation to the SA Energy Industry National Rule 5 b to PART XXI and a new PART XXVIII in D2015/53.

I have decided to formally withdraw the application and re-ballot the recommendation with the correct rule alteration.

As per Rule 49 I as National Secretary propose the following recommendations:

1. withdrawal of the original application; and
2. endorsement of the attached recommendation for the new rule alteration.

Accordingly, please find attached the voting paper with the proposed amendments to the ASU National Rules and I recommend that you vote to support them. Also attached is a copy of the original rule and a document with tracked changes to reflect the amendments.

I request your prompt response in regard to the attached Recommendation so that the proposed amendments to the ASU National Rules can be submitted to the Fair Work Commission for certification, as soon as possible.

Yours faithfully

Tel: +61 3 9342 1401
Mobile: 0419 644 238
E-mail: dsmith@asu.asn.au

David Smith
NATIONAL SECRETARY

[enc](#)

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Services
Union**

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National Secretary
David Smith

Assistant National Secretaries
Greg McLean
Linda White

VOTING PAPER
Proposed National Rule Change re South Australian Energy Industry

The Regulatory Compliance Branch of Fair Work Commission has identified drafting problems with the ASU's application to alter the eligibility rules in relation to the SA Energy Industry National Rule 5 b to PART XXI and a new PART XXVIII lodged on 15 April 2015 in D2015/53.

I have decided to formally withdraw the application and re-ballot the recommendation with the correct rule alteration.

As per Rule 49 I as the National Secretary propose the following recommendations:

Recommendation 1:

"That in accordance with Regulation 123 of the Fair Work (Registered Organisations) Regulations 2009 National Executive resolves to withdraw the application and then lodge a formal withdrawal application with Fair Work Commission in D2015/53."

I support recommendation 1:

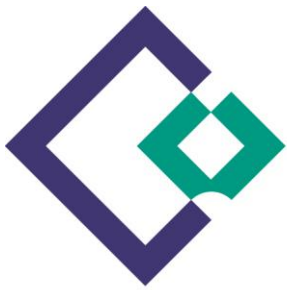
YES

NO

Signed

Print Name

Dated



A•S•U

Annexure A2.

File/Our Ref: DS/db 12.21
Your Ref:
Please quote in reply

Friday, 22 May 2015

TO: All National Executive Members
As addressed

By E-mail

Dear National Executive Member

**Postal/Fax/Email Vote No. 05/2015
Proposed National Rule Change re South Australian Energy Industry**

The result of the e-mail ballot submitted to members of National Executive via e-mail on 19 May 2015, regarding the above is as follows:

A total of 138 affirmative votes were received from:

David Smith
Linda White
Greg McLean
Alex Scott
Irene Monro
Vivienne Doogan
Natalie Lang
Judith Wright
Angus McFarland
Graeme Kelly
Stephen Birney
Sharon Sewell
Neil Henderson
Jennifer Thomas
Lynette Henson
Joseph Scales
Abbie Spencer
Jeff Lapidis
Ancel Greenwood
Richard Duffy
Lisa Darmanin
Wendy Phillips
Ingrid Stitt
David Leydon
Paul O'Neill
Wayne Wood

No negative votes were received.

I advise that National Executive E-mail Vote No. 05/2015 is carried.

Yours faithfully

David Smith
National Secretary

Tel: +61 3 9342 1401
Mobile: 0419 644 238
E-mail: dsmith@asu.asn.au

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