

IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION

S CI 2009 04788

BETWEEN

**CAROL ANN MATTHEWS**

Plaintiff

and

**AUSNET ELECTRICITY SERVICES PTY LTD**  
**(formerly SPI ELECTRICITY PTY LTD)**  
**(ACN 064 651 118)**  
and others according to the Schedule

Defendants

AND BETWEEN

**AUSNET ELECTRICITY SERVICES PTY LTD**  
**(formerly SPI ELECTRICITY PTY LTD)**  
**(ACN 064 651 118)**

Plaintiff by Counterclaim

and

**ACN 060 674 580 PTY LTD**  
and others according to the Schedule

Defendants by Counterclaim

AND BETWEEN

**ACN 060 674 580 PTY LTD**

Plaintiff by UAM Counterclaim

and

**AUSNET ELECTRICITY SERVICES PTY LTD**  
**(formerly SPI ELECTRICITY PTY LTD)**  
**(ACN 064 651 118)**  
and others according to the Schedule

Defendants by UAM Counterclaim

**GENERAL FORM OF ORDER**

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**JUDGE:**

The Honourable Justice Osborn

**DATE MADE:**

23 December 2014

**ORIGINATING PROCESS:**

Amended Writ dated 5 August 2010

**HOW OBTAINED:**

Summons filed 25 July 2014

**ATTENDANCE:**

Mr R Richter QC, Mr T Tobin SC, Mr A Keogh SC and  
Mr L Armstrong SC with Ms M Szydzik of counsel for the  
plaintiff

Mr W R Ray and Ms E Brimer of counsel for the second  
defendant

Mr M Rush of counsel for the third to fifth defendants



## THE COURT ORDERS:

### *Confidential materials*

- 1 Pursuant to s 33ZF of the *Supreme Court Act 1986* ('the Act'), alternatively the inherent jurisdiction of the Supreme Court; and r 28.05 of the *Supreme Court (General Civil Procedure) Rules 2005* ('the Rules'), the documents listed in Schedule A to this order:
  - (a) be confidential exhibits save to the extent that they are expressly referred to in the reasons for judgment of the Honourable Justice Osborn of 23 December 2014;
  - (b) be sealed in an envelope marked 'Not to be opened without leave of the Court or a Judge' and placed on the Court file; and
  - (c) be held on the Court file in accordance with (a) and (b) hereof until further order of the Court.

### *Settlement Approval*

- 2 Pursuant to s 33ZF of the Act, the Court authorises the plaintiff *nunc pro tunc*, for and on behalf of the group members and each of them, to enter into and give effect to the Deed of Settlement ('Deed') as a deed duly executed by the parties according to its terms, and enter into and give effect to the transactions contemplated by the Deed.
- 3 Pursuant to ss 33V, 33ZF and 33ZG of the Act, settlement of the proceeding upon the terms set out in the Deed be approved.
- 4 Pursuant to ss 33V, 33ZF and 33ZG of the Act, the terms set out in the document titled 'Settlement Distribution Scheme' ('Scheme') be approved as the procedure for distributing among the plaintiff and group members the settlement sum payable by the defendants pursuant to the Deed.

### *Plaintiff's costs and Scheme 'Administration Costs'*

- 5 Pursuant to s33ZF, alternatively s33ZG, alternatively the inherent jurisdiction of the Court, Matthews' Costs and Disbursements for the purposes of the Deed and the Scheme:
  - (a) be fixed in the sum of sixty million dollars (\$60,000,000.00);
  - (b) be paid by the group members who become entitled to a payment of compensation in consequence of the Deed and the Scheme, according to the procedure set out in the Scheme.
- 6 Pursuant to s 33ZF, alternatively s 33ZG, alternatively the inherent jurisdiction of the Court:
  - (a) the Scheme Administrator at such times as he considers appropriate file with the Court his claims for payment of costs of and incidental to the implementation of the Scheme, in a form to be approved by the supervising judge; and
  - (b) subject to any further orders made by the supervising judge — the Scheme Administrator's costs of and incidental to the implementation of the Scheme be



paid by the group members who become entitled to a payment of compensation in consequence of the Deed and the Scheme, according to the procedure set out in the Scheme.

*Persons under a disability*

- 7 Pursuant to ss 33V, 33ZF, 33ZG and 33ZJ of the Act, and r 2.04 of the Rules:
- (a) compliance with r 15.08(2) of the Rules be dispensed with, in respect of the application for approval of the proposed settlement of the proceeding; and
  - (b) until further order — compliance with r 15.08(2) of the Rules be dispensed with in respect of any compromise of a claim by a person under a disability, effected pursuant to the Scheme.

*Other matters*

- 8 Pursuant to s 33ZF, the plaintiff, the group members and the Scheme Administrator (as defined in the Scheme) each have liberty to apply to the supervising judge, upon not less than 5 clear business days' notice to each other party, for orders in respect of any issue arising in relation to the administration of the Scheme.
- 9 All orders for costs made in the proceeding, including orders for reserved costs, but not including the insurers' costs orders as defined in the Deed, be vacated.
- 10 Upon completion of distributions pursuant to the Scheme, the proceeding, including any counterclaim and contribution notices, be dismissed with no order as to costs.
- 11 The Honourable Justice J Forrest be nominated as supervising judge with respect to the Scheme until further order of the Associate Judge in charge of Listings.

DATE AUTHENTICATED: 23 December 2014



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The Honourable Justice Osborn





## SCHEDULE A

1. Affidavit of Andrew John Watson dated 10 November 2014
2. Exhibit AJW 4 — Schedules A and B of the Settlement Distribution Scheme
3. Exhibit AJW 8 — Advice of independent counsel
4. Exhibit AJW 9 — Confidential opinion of trial counsel as to reasonableness of the proposed settlement
5. Exhibit AJW 10 — Correspondence from Hall & Wilcox to Maurice Blackburn dated 3 July 2014
6. Exhibit AJW 11 — Correspondence from Maurice Blackburn to Hall&Wilcox dated 7 July 2014
7. Exhibit AJW 12 — Communications between mediator and the parties as to quantum
8. Exhibit AJW 13 — Proposed settlement sum distribution
9. Affidavit of Catherine Mary Dealehr dated 10 November 2014
10. Affidavit of Joseph Anthony Mazzeo dated 10 November 2014
11. Further affidavit of Joseph Anthony Mazzeo dated 11 November 2014
12. Further affidavit of Andrew John Watson dated 21 November 2014



SCHEDULE OF PARTIES

S CI 2009 4788

BETWEEN:

CAROL ANN MATTHEWS

Plaintiff

- and -

AUSNET ELECTRICITY SERVICES PTY LTD  
(formerly SPI ELECTRICITY PTY LTD)  
(ACN 064 651 118)

First Defendant

ACN 060 674 580 PTY LTD

Second Defendant

SECRETARY TO THE DEPARTMENT OF  
SUSTAINABILITY AND ENVIRONMENT

Third Defendant

COUNTRY FIRE AUTHORITY

Fourth Defendant

STATE OF VICTORIA

Fifth Defendant

AND BETWEEN

AUSNET ELECTRICITY SERVICES PTY LTD  
(formerly SPI ELECTRICITY PTY LTD)  
(ACN 064 651 118)

Plaintiff by counterclaim

- and -

ACN 060 674 580 PTY LTD

First Defendant by Counterclaim

SECRETARY TO THE DEPARTMENT OF  
SUSTAINABILITY AND ENVIRONMENT

Second Defendant by Counterclaim

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STATE OF VICTORIA

Fourth Defendant by Counterclaim

CAROL ANN MATTHEWS

Fifth Defendant by Counterclaim

AND BETWEEN

ACN 060 674 580 PTY LTD

Plaintiff by UAM Counterclaim

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CAROL ANN MATTHEWS

Second Defendant by UAM  
Counterclaim

Third Defendant by UAM  
Counterclaim

Fourth Defendant by UAM  
Counterclaim

Fifth Defendant by UAM Counterclaim

