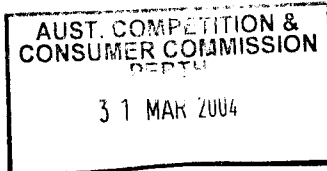




**STATEWEST POWER**  
Power for Mining and Industry

18 March 2004

The Regional Director  
Australian Competition and Consumer Commission  
3rd Floor  
East Point Plaza  
223 Adelaide Terrace  
PERTH WA 6000



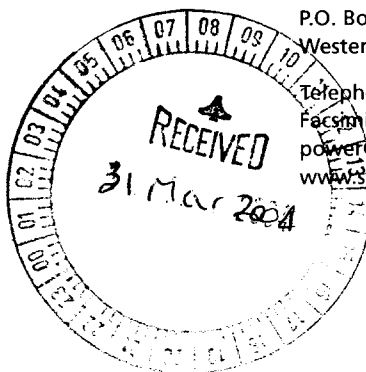
N70381

StateWest Power Pty Ltd  
A.C.N. 009 017 458  
A.B.N. 82 009 017 458

7-11 Catalano Road, Canning Vale  
Western Australia 6155

P.O. Box 1459, Canning Vale  
Western Australia 6970

Telephone (08) 9456 0466  
Facsimile (08) 9456 0460  
power@statewest.com.au  
www.statewest.com.au



Dear Sir

**Notification – Power Purchase Agreement with Western Power Corporation**

I am writing to you on behalf of StateWest Power Pty Ltd (“StateWest”) to formally notify conduct by StateWest in supplying electricity pursuant to the terms of a Power Purchase Agreement with Western Power Corporation dated 30 August 2001. The notification relates to past and future conduct in relation to the agreement.

It has been drawn to our attention that the notification lodged by Western Power in respect of the agreement may not extend to conduct of StateWest in making and giving effect to the agreement. Without conceding this to be the case and on the basis that StateWest maintains the position in any event that its conduct in making and giving effect to the agreement does not contravene Part IV of the *Trade Practices Act*, we enclose a notification, application fee and a copy of the agreement.

We maintain that the terms of the agreement are confidential and therefore request that it be excluded from the public register. We understand that Western Power has provided you with information concerning the basis for that claim which has been upheld. Should you require further information in relation to the claim for confidentiality could you please inform us.

Otherwise, if there is further information that you require we would be pleased to provide a more detailed description of the conduct and its market context.

Thank you for your assistance.

Yours sincerely  
STATEWEST POWER PTY LTD

  
Stephen Price  
General Manager

ACCC	
NASA MARSH	19362
DOC ID:	D04/15522
FILE:	2004/3



## FORM G

Regulation 9

## COMMONWEALTH OF AUSTRALIA

*Trade Practices Act 1974 – Sub-section 93(1)*

## EXCLUSIVE DEALING

## NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the Trade Practices Act 1974, of particulars of proposed conduct of a kind referred to in sub-section 47(2) or (4) of that Act in which the person giving notice proposes to engage.

1. (a) **Name of person giving notice**

StateWest Power Pty Ltd ("StateWest")  
7-11 Catalano Road, Canning Vale  
Western Australia

(b) **Short description of business carried on by that person**

StateWest is an electricity supplier.

(c) **Address in Australia for service of documents on that person**

c/- Corporate Solicitor's Office  
Wesfarmers Limited  
Floor 11, Wesfarmers House  
40 The Esplanade  
PERTH WA 6000  
Attention : Vicki Allars

2. (a) **Description of the goods or services in relation to the supply or acquisition to which this notice relates**

Electricity to be supplied by StateWest to Western Power Corporation ("WPC") in the Mid West region of Western Australia, and more particularly, the towns of Meekatharra, Mount Magnet, Yalgoo, Sandstone, Cue and Wiluna from generation facilities constructed, owned and operated by StateWest.

(b) **Description of the conduct or proposed conduct**

The supply of electricity by StateWest to Western Power pursuant to the terms of a power supply agreement ("the PSA"):

- (a) on condition that in the event of curtailment of the capacity of StateWest to supply electricity, StateWest will supply Western Power with electricity in

priority to the supply of electricity to other customers of StateWest (cl.10) ('the curtailment condition'); and

- (b) on condition that WPC will purchase from StateWest all of its requirements at points of supply in Mount Magnet, Meekatharra, Cue, Yalgoo and Wiluna for a period of 10 years plus a further period not exceeding 1 year or a period not less than 5 years but not exceeding 10 years as nominated by WPC in the exercise of an option to renew (cl.7, 8 and 9) ('the requirements condition').

Full details of the conduct are provided in annexure A and the PSA a copy of which is provided with this notification on a confidential basis.

3. (a) **Class or classes of persons to which the conduct relates**

- (i) in relation to the curtailment condition, other customers of StateWest, whose electricity requirements during any curtailment will, in defined circumstances, not have priority to WPC's supply requirements; and
- (ii) in relation to the requirements condition, other actual or potential power producers who might seek to supply power to WPC in the Mid West region.

(b) **Number of those persons –**

Due to uncertainty as to the actual scope and effect of any power curtailment StateWest is unable to estimate the number of persons (if any) who might, on any occasion, be affected by the curtailment condition.

The parties affected by the requirements condition are the 11 parties who expressed interest in supplying electricity to Western Power as part of the tender process that preceded the PSA and any additional electricity suppliers who may, seek to supply electricity to Western Power during the term of the PSA.

(c) **Where number of persons stated in item 3(b) is less than 50, their names and addresses**

Modra Electric Power	527 Abernethy Road, Kewdale WA
Burns and Roe Worley	Level 4, QVI Building, 250 St George's Terrace, Perth WA
Beacons Consulting International Pty Ltd (consortium comprising TNB Nasional Berhad of Malaysia, Indkom Holding Sdn. Berhad of Malaysia and Beacons Consulting International Pty Ltd of Australia)	PO Box 133, Forrestfield, WA
Clarke Energy Limited	12 Victor Street, Beaumaris, Melbourne VIC
Tidal Power Australia Ltd	Lot 7 Albany Highway, Kojonup, WA
Aggreko Generator Rentals Pty Ltd	97 Dowd Street, Welshpool, WA
Energy Developments	848 Boundary Road, Richlands, QLD
Balcke-Durr RG	Permata Hijau Blok G No. 39, Jakarta, Indonesia

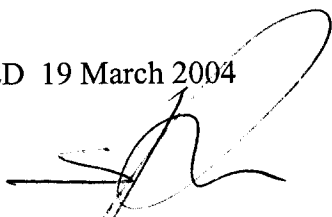
New World Projects	PO Box 11, Morisset, NSW
Western Power Corporation and the Australian Gas Light Company	363 Wellington Street, Perth, WA
HRL Projects Pty Ltd	677 Springvale Road, Mulgrave, VIC

Other potential suppliers of electricity in Australia who can not now be identified by StateWest.

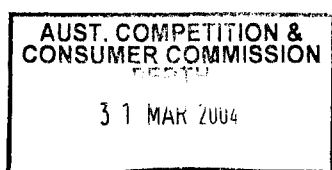
4. **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice**

Vicki Allars  
Corporate Solicitor's Office  
Wesfarmers Limited  
Floor 11, Wesfarmers House  
40 The Esplanade  
PERTH WA 6000

DATED 19 March 2004



Signed for and on behalf of  
StateWest Power Pty Ltd



## ANNEXURE "A"

1. The PSA relates to the supply of electricity in the Mid West of Western Australia.
2. It was entered into following a tender process in which 11 parties expressed an interest in participating, 7 participated in the next stage of the process and 4 were final bidders.
3. Of the final bidders, negotiations proceeded with 2 parties submitting final bids in accordance with procedures supervised by the State Supply Branch following which StateWest was announced as the preferred bidder.
4. In order to supply the projected electricity requirements of Western Power in accordance with the PSA, it was necessary for a power station to be constructed in the Mid West with a minimum operating life of 10 years.
5. In order to justify the capital investment in the new power station and in order for Western Power to obtain a competitive price that reduced the premium that would be charged for the risk of stranded capital, it was necessary for Western Power to offer a long term commitment to purchase electricity.
6. Western Power is the supplier of last resort to customers in the Mid West (and elsewhere in Western Australia). Western Power provides backup support where other suppliers are unable to meet the requirements of individual customers. The existence of such backup support is necessary to ensure that an interconnected electricity system remains stable. There is a public interest in contractual arrangements that ensure the availability of electricity through an interconnected system.
7. The PSA imposes no restriction on supply by StateWest to customers other than Western Power.
8. The PSA expressly acknowledges that there are "contestable customers" who have access to the Mid West power system to whom StateWest can supply electricity (cl.9.4).
9. The PSA allows for a buyout by Western Power in certain circumstances including when cheaper alternative supplies are available (cl.25).
10. The PSA allows Western Power to buy some of its requirements from other suppliers in relation to renewable energy sources (cl.9.5) and others.
11. The conduct relates to markets in which suppliers compete for the opportunity to supply electricity to customers by investing in generation facilities connected to distribution infrastructure. As the tender process illustrated there are many participants in such a market who compete throughout Australia for such opportunities.
12. The PSA relates to a very small part of the electricity demand for which such suppliers compete. The electricity to be supplied under the PSA is substantially less than 1% of the total demand in Western Australia and involves installed capacity for approximately 6.4MW.

13. If Western Power had not entered into the PSA with StateWest then it would have entered into an agreement on similar terms with another supplier or constructed the generation equipment itself and in any such case the market effect would have been similar.
14. The evident purpose of the PSA is to provide sufficient security of supply in order to justify capital investment. It enables Western Power to secure supplies of electricity at a lower price than if it did not enter into a term requirements contract.
15. Any extension of the term of the PSA beyond the initial term of 10 years will be at the election of Western Power and it can be assumed that Western Power will only exercise those rights if it has no more favourable competitive alternative.
16. The curtailment provisions will apply in very limited circumstances and reflect the obligations of Western Power to maintain supply of electricity to the interconnected system.

Confidentiality granted for Midwest Power Purchase  
Agreement.