



**Australian
Competition &
Consumer
Commission**

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602

ph (02) 6243 1111
fax (02) 6243 1199

www.accc.gov.au

Our Ref:
Your Ref:
Contact Officer: Isabelle Arnaud
Contact Phone: 02 6243 1049

18 January 2005

Ms Vicki Allars
Legal Counsel
Westfarmers Limited
GPO Box M978
Perth WA 6843

Dear Ms Allars

**Exclusive dealing notification N70406 lodged by StateWest Power Pty Ltd
Remote Towns Power Purchase Agreement**

I refer to the above notification for exclusive dealing lodged with the Australian Competition and Consumer Commission (the ACCC) on 6 January 2005, in relation to the Remote Towns Purchase Agreement entered by StateWest Power Pty Ltd (StateWest) with Western Power Corporation (WPC). Legal immunity provided by the notification commenced on 6 January 2005.

You have described the conduct as the supply of electricity by StateWest to WPC pursuant to the terms of the Remote Towns Power Purchase Agreement, on condition that:

- (a) in the event of curtailment of the capacity of StateWest to supply electricity, StateWest will supply electricity to WPC in priority to the supply of electricity to other StateWest customers; and
- (b) WPC will purchase from StateWest, except to a limited extent, all of its electricity requirements at point of supply in Marble Bar, Nullagine, Laverton, Menzies and Gascoyne Junction for a period of 10 years plus a further period of 5 years, or such other period as negotiated between WPC and StateWest.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.



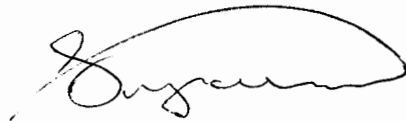
As with any notification, the ACCC may act to remove the immunity afforded by this notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

I note that the exclusive dealing conduct in relation to the curtailment provision of the agreement appears to be engaged in by WPC. As you may be aware, notification has the effect of affording immunity to the person who has lodged the notification and is engaging in the exclusive dealing conduct. As WPC also lodged a notification (N70405) in relation to this conduct on 6 January 2005, legal immunity has been provided to this conduct since that date. The ACCC has informed WPC that on the basis of the information provided, it is not intended that further action be taken in relation to this matter at this stage.

I further note that you have claimed confidentiality in relation to the terms of the Remote Towns Power Purchase Agreement. As a person authorised to exclude documents from the public register for and on behalf of the ACCC, I advise that confidentiality has been granted to the agreement as requested. The remainder of your submission, as well as this letter, have been placed on the ACCC's public register.

Should you have any query in relation to this matter, please do not hesitate to contact Isabelle Arnaud on (02) 6243 1049.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a large, sweeping flourish at the end.

Scott Gregson
Acting General Manager
Adjudication Branch