



**Australian  
Competition &  
Consumer  
Commission**

Our Ref:  
Your Ref: 80707273  
Contact Officer: Isabelle Arnaud  
Contact Phone: 02 6243 1049

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
ph (02) 6243 1111  
fax (02) 6243 1199  
[www.accc.gov.au](http://www.accc.gov.au)

18 January 2005

Ms Erica Lampard  
Senior Associate  
Freehills  
GPO Box U1942  
PERTH WA 6845

Dear Ms Lampard

**Exclusive dealing notification N70405 lodged by Western Power Corporation  
Remote Towns Power Purchase Agreement**

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

Your client has described the conduct as being:

- (a) in the event of a curtailment in supply of electricity by StateWest, the supply of electricity to meet WPC's requirements must take priority over the supply of electricity to other StateWest customers;
- (b) WPC will purchase, except to a limited extent, all of its electricity requirements in the remote towns from StateWest for a period of 10 years, with a possible extension of 5 years or such other period as negotiated between WPC and StateWest.

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

As with any notification, please note that 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 long-term nature of the contract appears to be engaged in by StateWest. As you would 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 StateWest also lodged a notification (N70406) in relation to this conduct on 6 January 2005, legal immunity has been provided to this conduct since that date. The ACCC has informed StateWest 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 your client has 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 extending to the right.

Scott Gregson  
Acting General Manager  
Adjudication Branch