

DEPUTY PRESIDENT JOHNSON: These proceedings are continued from the 6th March. Ms Shelley?

5 MS SHELLEY: I'm able to report that the parties have now reached agreement in relation to this matter. As a preface to outlining what that agreement is, I do want to stress that it is a matter by agreement due to the particular circumstances of this application and in no way is to be regarded as any precedent in so far as the spacing of arbitrated safety net adjustments is concerned with any future applications.

10 The agreed position is that the second arbitrated safety net adjustment be available from the 19th March 1998. With the third arbitrated safety net adjustment to flow automatically six months later, that is from the 19th September 1998 and I understand that the commission does have a draft order and we find the format quite acceptable, subject of course to checking for errors and omissions.

20 There's a small degree of retrospectivity in that the second safety net adjustment would be available from the 19th March. I believe that that's more than reasonable in the circumstances. The commission has already had the long history of applications in respect of this put before it by Ms Archer of our organisation but the initial application was made on the 5th June 1997 and was subsequently withdrawn at the request of the employers because of what was currently happening with the State Wage Case hearing at that stage.

30 Another application was made on the 14th September 1997 but a hearing wasn't set down until February of this year. On the 25th February the employers opposed the application at that stage and here we are before you again on the 1st April 1998, so a considerable period of time has elapsed. So, I believe that that small retrospective arrangement should be acceptable. It has been agreed by the employers, so presumably they've made provision for that and are prepared to pay it from that date.

35 I believe that the application meets the principles as outlined in 7.1 and 7.2 in that the outstanding arbitrated safety net adjustments continue to be accessible on application and shall be determined by agreement between the parties, which of course is the case. If the commission pleases.

40 DEPUTY PRESIDENT JOHNSON: Thank you, Ms Shelley. Mr Gates?

45 MR GATES: Yes, thank you, deputy president. We can say we're in a position to consent to the draft orders today, obviously subject to errors and omissions and I understand there may be some further work which is needed in relation to format but we can look at that afterwards.

50 The operative dates for the second eight dollar safety net adjustment being the first full pay period on or after the 19th March 1998 and the third arbitrated safety net adjustment being operative from the first full pay period on or after the 19th September 1998.

55 It's our submission that the application before you and the operative dates are in accordance with the Wage Fixation Principles, it is not in contravention of the public interest. Just in relation to other awards - other

awards will obviously stand on the facts which pertain to those and will obviously be dealt with in accordance with the Wage Fixation Principles. If it pleases, deputy president, I have nothing further.

5 DEPUTY PRESIDENT JOHNSON: Thank you, Mr Gates. I must say that I have some preference for the formatting that has been conveyed to you by Mrs Gillie. If, for no other reason, than it was used for a million years in the federal commission and never caused any hassles, so unless there is some strong views on your part that I should do something differently in order to
10 avoid misinterpretation or error, then I think I will stick to the draft that you've seen momentarily, I admit, a copy of.

MR GATES: Oh, the draft - it's simply a matter of preference, I think it was, and that's not a matter which I'm prepared to go to the wall and I
15 think they all achieve the same result at the end of the day. It's just how we get to that result.

DEPUTY PRESIDENT JOHNSON: This is the first time in my memory that you've been prepared to take a prisoner.
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MR GATES: Prepared not to take a prisoner. It's fine. I mean - I simply had a different view but I think that if anyone has any questions then they will either consult me or if it's another employer out there, then it's sufficiently clear that they can understand it.
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DEPUTY PRESIDENT JOHNSON: All right. Thank you, Mr Gates. Having heard the parties, I'm satisfied that there's nothing in these applications that contravenes the wage fixing principles or the provisions of section 36 of the Act. Accordingly, I will approve the variation of the award in terms of
30 both applications. The commission's order will accommodate both operative dates, that is to say that the second eight dollar safety net adjustment will come into operation from the beginning of the first - what have I done wrong, Mr Gates?

MR GATES: Oh, you've done nothing wrong, deputy president. It's just a point of clarification. Perhaps it may be advisable in the draft order, instead of referring to 'ffpp', that we simply put, first full pay period - just simply because if an employer picks it up and they see 'ffpp', they won't necessarily understand what it is.
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DEPUTY PRESIDENT JOHNSON: I thought employers were understanding ffpp as a common understanding that's been -

MR GATES: Okay. Well, if that's the case. I mean - I understand what it means.
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DEPUTY PRESIDENT JOHNSON: I know of no problem with it. The commission's order as to the second operative date will come into effect from the first full pay period to commence on or after the 19th September
50 1998. Unless there is anything further, that will conclude the hearing of these matters. The commission will publish its orders and written decision fairly promptly.

That concludes the hearing of matters, T numbers 7014 of 1997 and 7509
55 of 1998.

HEARING CONCLUDED