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TRANSCRIPT OF PROCEEDINGS

O/N 9645

TASMANIAN INDUSTRIAL COMMISSION

COMMISSIONER ABEY

T No 10990 of 2003

PASMINCO HOBART SMELTER ENTERPRISE AWARD

**Application pursuant to the provisions of
section 23 of the Industrial Relations Act 1984
by the Australian Workers Union, Tasmania Branch
to vary the above award to increase rates of pay
from 1 August 2003 in accordance with T10886/03,
T10887/03, T10927/03 and T10928/03**

HOBART

10.00 AM, FRIDAY, 8 AUGUST 2003

HEARING COMMENCED

[10.05am]

PN1

MR R. FLANAGAN: I appear on behalf of the Australian Workers Union, Tasmania Branch.

PN2

MR P. BAKER: I appear on behalf of the Automotive Foods, Metals, Engineering, Printing and Kindred Industries Union.

PN3

MR W.J. FITZGERALD: I appear on behalf of Pasminco.

PN4

THE COMMISSIONER: Thank you. I should indicate that I have correspondence from Mr Benson from the CFMEU which says:

PN5

Please be advised that CFMEU Tasmania Branch supports AWU application T10990 of 2003 re Pasminco Smelter Enterprise Award. Due to excessive workload the CFMEU will be unable to attend the hearing.

PN6

So it naturally follows from that that no one here has got an excessive workload.

PN7

MR FLANAGAN: Don't believe it.

PN8

THE COMMISSIONER: Mr Flanagan?

PN9

MR FLANAGAN: Commissioner, if I can just give you some background on this application and the other application which is before you this morning?

PN10

THE COMMISSIONER: Yes.

PN11

MR FLANAGAN: For a period of some time the union failed to maintain the award in the context of varying rates of pay and work-related allowances in line with movements of the State wage case from time to time. So earlier this year an application was made the effect of which was to bring the awards up to date in terms of rates of pay and work-related allowances. The objective of the application which is before you is to bring the awards, the Pasminco Rosebery Mining Award and the Pasminco Hobart Smelter Award in line with 1 August this year as an operative date which in turn means that come next year when their State wage case occurs these awards should be able to be varied by general application if that is the path the Commission chooses, whereas it was not available this year without this application.

PN12

So whilst the immediate objective is to flow on the State wage case to these two awards this year it also has that further objective of ensuring that these awards are in line with the rest of the awards of the Commission. So that is the background. I would seek to tender a draft order and I need to indicate to the Commission that the draft order requires some further amendment and the union will provide the Commission with a further amended draft order. If I can take you through that order - did you want to mark it, Commissioner?

PN13

THE COMMISSIONER: Yes. I will mark that AWU1.

EXHIBIT #AWU1 DRAFT ORDER

PN14

MR FLANAGAN: The first thing that AWU1 does is vary the service and experience payment by the figure of 3.24 per cent which is the relevant percentage identified for workload allowances in the State wage case. Variation number 2 increases the rates of pay and where the rate, and in fact all of the rates, were below 731.80 - so in that situation they all received an increase of \$17 per week to the safety net adjustment. On the following page I need to - again the allowances is the third variation. They again have been increased by 3.24 per cent. I need to inform you that I have included there the direct deposit allowance which is not a work-related allowance so in the amended draft that we will provide you with that will be deleted.

PN15

I also - yes, and then on the following page the special rates again have been increased by 3.24 per cent given that they are work-related allowances as well. We fail, however, in this draft to incorporate both the minimum wage provision and the supported wage provision so they will be incorporated into a further draft to address those issues directly. So simply put what we would say is that the rates have been increased in accordance with T10887 of 2003 as have the work-related allowances. We would further submit in terms of the operative date that there is no cost impact arising from the order which is being sought given that the Pasminco Hobart smelter workforce is in fact currently operating on a section 55 agreement so there will be no impact of the retrospective date.

PN16

In any event the proposed operative date does not predate the date of application and in those circumstances the Commission is authorised to approve the application from 1 August this year. If it pleases the Commission.

PN17

THE COMMISSIONER: Yes, thank you, Mr Flanagan. Mr Baker?

PN18

MR BAKER: Thank you, sir. This has been, as Mr Flanagan has indicated to you, it has been before the Commission previously. It had been an oversight on the part of the respondent organisations and that is something to which

attention has now been directed and consistent with the submissions put forward by Mr Flanagan we would ask you to vary the award according.

PN19

THE COMMISSIONER: Yes, thank you, Mr Baker. Mr FitzGerald?

PN20

MR FITZGERALD: Thank you, Commissioner. Yes, I will be brief as well. We would support the application subject to of course receipt of the varied draft order which includes no inclusion of the direct deposit allowance, that would remain the same, and those other provisions including supporting wage and minimum wage. Other than that we see that it is consistent with the State wage case earlier on this year so in that case we have no objection to the application.

PN21

THE COMMISSIONER: Including the operative date of 1 August?

PN22

MR FITZGERALD: Including the operative date.

PN23

THE COMMISSIONER: Yes, thank you. Yes, well, in those circumstances the application is clearly consistent with the wage-fixing principles and the public interest requirements of the Act. The application will be granted, operative from the beginning of the first pay period commencing on or after 1 August 2003.

ADJOURNED INDEFINITELY

[10.12am]

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