

**TASMANIAN INDUSTRIAL COMMISSION**  
Industrial Relations Act 1984

T No. 5539 of 1995

**IN THE MATTER OF** an application by the  
AWU-FIME Amalgamated Union Tasmania  
Branch to vary the Cement Makers Award

re remuneration and classifications  
applicable to the control room operator

COMMISSIONER GOZZI

DEVONPORT, 29 June 1995  
continued from 14/6/95

**TRANSCRIPT OF PROCEEDINGS**

Unedited

COMMISSIONER GOZZI: Any changes in appearances this morning?

MR TARGETT: One change, yes, commissioner. On the last hearing day I forgot to put the appearance in for **MR CRAIG ANDERSON**, and I do so today in addition to the other.

5 COMMISSIONER GOZZI: Good; thank you, Mr Targett. Mr Cooper, I think you are to proceed this morning.

MR COOPER: That's correct, commissioner. I don't have much more to add, other than to say that I think it would be important - we talked about the technical aspect of the inspections that were part of the dispute that we had in T.5469 of 1995 - and, sir,  
10 what I would like to do for the record, if I can, is just refer the commission in terms of this application to page 9 of transcript in that application.

COMMISSIONER GOZZI: Page 9?

MR COOPER: Of T.5469 of 1995. And the reason that I do that is because - it starts at line 30 'OFF THE RECORD' - and it is actually commences with your conversation  
15 where you say:

*All right, we have just conducted an inspection in the central control room -*

- and you then go through what you have observed, and then you ask for comment from both parties, which we give, and then we actually define towards the end of the transcript - which goes to page 17 - the parameters of this application. I think if we do  
20 that, sir, that would actually make me satisfied that the inspections were conducted, what you actually observed, was then part of these proceedings. So, while it is a little bit unusual, I would seek to do that. I have one copy of transcript I can get done and put up as an exhibit later, if you like.

COMMISSIONER GOZZI: Well, I haven't got that particular file with me.

25 MR COOPER: No.

COMMISSIONER GOZZI: That was a dispute notification file, wasn't it?

MR COOPER: Yes, that's right.

COMMISSIONER GOZZI: Yes.

MR COOPER: And Mr Targett has a copy and I have a copy, so obviously the commission - I can provide one. Anyway, what that does, sir, it tidies that last point  
30 up.

COMMISSIONER GOZZI: Right.

MR COOPER: Sir, if I may, there is one other exhibit that I would like to put in terms of the central control room operations.

35 COMMISSIONER GOZZI: I think that is exhibit C.15, Mr Cooper.

MR COOPER: C.16, I think, sir.

COMMISSIONER GOZZI: C.16.

MR COOPER: Now what this goes to, sir, is the emergency shutdown procedure, and if I can just read that to the commission.

*If the central control room operators observe any unexplained high temperature or low suction or any other unusual phenomenon such as heavy dust emission from dust work he has the authority to immediately commence the shutdown procedure. He takes this action without reference to the shift foreman.*

5 And it goes through a series of steps which the central control room operator has to undertake in terms of an emergency shutdown for whatever reason.

COMMISSIONER GOZZI: Right.

MR COOPER: So I do that just to tidy up in terms of the job procedure that we talked about during the course of explaining the work that is being done.

10 COMMISSIONER GOZZI: Mm.

MR COOPER: And that does show that there is a fair degree of responsibility, or it does emphasise that responsibility that is attached to the job.

15 Sir, in terms of our submissions that we've made, basically you have heard testimony from two witnesses for the union who basically put to the commission - underlying their submissions I would say, if I could paraphrase that. They put to the commission that their experience did count for a fair bit in terms of the work that was carried out.

20 You've heard from one who had 15 years as a burner in the kiln and still didn't know it all, and you heard from Mr Parry in terms of being a tradesperson and then coming to the job and still learning continually with that, and his experience in terms of plant knowledge was able to assist him in his job as a central control room operator.

25 So in terms of one of the key issues that we would like the commission to consider in respect to this application, which was basically outlined I think in exhibit - I think it was exhibit 14 - where it was - I will just check that, sir - actually 13 it was, sir - in terms of C.13 where there was correspondence to Mr .... from Mr Hayes and it went through a number of issues on the attachment and went to those supporting reasons, and he actually outlined the claim.

Sir, in considering this application to vary we think that you should put a lot of weight on that aspect of the job that does rely on experience and knowledge when you do assign a value if you are in a position to support the claim by the union.

30 I think in further considering that, sir, you must take into account the adaptation that has occurred by these operators in respect to the new equipment and the new technology that has been brought onto the plant, and also the extra responsibility that then attaches itself to the job, and I don't intend to do back through all those because you would no doubt be aware of those through the proceedings.

35 There is also another question of the ongoing change that occurs, and we have heard where set points are changed continually and the operators must continually be familiar with that change to operate within the parameters of the expectations in terms of quality and product output.

40 So, in terms of that, sir, I don't intend to put too much more on the record other than to say that in observing I did advise the commission at the conclusion of proceedings last time that I would investigate some other awards of the state commission to see if there was any consideration given to work of a similar nature.

I must report that I didn't find any, and there was one award, though, that did contain a rate for production operators that was higher than trades, and that was in the

Pasminco Rosebery Mining Award where an underground miner actually received a base rate of \$686.00, where the trades rate was just over \$400. And that was the only - I suppose it could be called an aberration to the system - where you have a percentage relativity assigned to all classifications. And that award I understand you would be familiar with because I think you were the commissioner that conducted the restructuring exercise that actually brought those rates into existence. So that's of benefit to me. I don't have to explain that to you because you are familiar with that.

So, sir, in concluding my submissions I would put to you that the claim by the union should be considered by the commission in respect to the work that is carried out by the central control room, the fact that there is one operator there, the fact that we have - despite not reaching an agreement on this - continued to participate with the company in a positive manner and that saw the introduction of 12 hour shifts and it saw a change to the practice in terms of going from two operators to one, and that has brought about with it major benefits to the company that have been introduced in conjunction with the upgrade and the increased production and the benefits that flow from that. And I think you have observed all those.

I would ask again, commissioner, that in considering this claim that you do take time to consider that part of the claim that is related to experience and knowledge, because it isn't something that you can quantify as simply as you can a module that's available through a TAFE or a registered organisation that provides training.

So I would ask the commission to consider all that, and subject to any questions, that would conclude my submissions in respect to this matter.

COMMISSIONER GOZZI: Mr Cooper, I must say I had anticipated a fairly much more detailed submission than what you've made.

I think there are a couple of issues. One is that the rate was established on an interim basis, and I am not sure, apart from what the witnesses have said which really goes to experience and knowledge, how you benchmark the rate and, from a work value point of view, come to a view that on some criteria that there ought to be an increase in that rate.

Now the other problem that I perceive is that whilst I might be aware of how these other rates are established, for the purpose of the proceedings I think you need to give the other side an opportunity to comment on that.

I mean, it is all right for me to have it in my mind and for you to tell me that I should know what I did, but that doesn't help in the context of the other side being able to put an argument because they may not have been involved, and I don't think they were.

MR COOPER: Sir, in terms of that, we did that when we took the commission in part through the testimony of the witnesses and also when we took the commission through document C.15 where we pointed out in that document some of the work that is done now by the central control.

COMMISSIONER GOZZI: C.13, you mean?

MR COOPER: Fifteen.

COMMISSIONER GOZZI: Fifteen. Right.

MR COOPER: 'Duties and Responsibilities of a Central Control Room Operator'.

COMMISSIONER GOZZI: Yes. Right.

MR COOPER: And we did take the commission through that, and I did say that I could expand on the parts that I didn't deal with - I didn't deal in great length with page 3 of that document - but I did take the commission through page 1 and part of page 2, and I did advise the commission that consistent with the submissions, or the evidence, that was received from our two members that did testify.

COMMISSIONER GOZZI: Yes. I guess the point I am making is, how is this different, or what wasn't taken into account when the rate was set on an interim basis when the award was restructured on the last occasion, and you agreed to set the rate on an interim basis, and so what factors in your opinion weren't taken into account, or weren't fully recognised in terms of the worth of the work at that point? What were the outstanding issues from then to now?

MR COOPER: Sir, in doing that interim rate, if I can just go back a little bit, that was done with our organiser Mr Devlin some years ago, and what was done was that the parties basically looked at the work and said there is a change to that work and they agreed on an interim rate that would be just that, an interim rate.

COMMISSIONER GOZZI: That's right.

MR COOPER: Now, considering that, the parties were cognisant then that a change had occurred in terms of the operators and they were outlined in that correspondence -

COMMISSIONER GOZZI: Yes, I have got that.

MR COOPER: - to the company, where it talks about increased responsibility and integration of kiln and coal operations, cement and raw mills, quarry and reclaim.

So, in terms of the major changes that were brought about by the upgrade, you can see that the number of operators reduced in terms of -

COMMISSIONER GOZZI: From two to one.

MR COOPER: Yes, well just - initially, though, there were panels that were set around the plant and we actually went to parts of those where there was a panel for the kiln and coal and there was operators operating cement and raw mills.

Now when they integrated those, three or four panels became one panel in the central control room which was operated by two operators, whereas previously they were operated by three. Then once the people became familiar with the plant and as part of further restructuring they went from a two man operation to a one man operation, and you heard in evidence that basically they either had to do that or put more people on to allow for the facilitation of leave and the like.

COMMISSIONER GOZZI: Right. Now, are you saying that those changes from four to three and then from two to one weren't recognised when the interim rate was established?

MR COOPER: Sufficiently.

COMMISSIONER GOZZI: Sufficiently?

MR COOPER: Yes, because they were recognised. We all knew that then, we all knew that then, that was the change, that we went from panels that were set around the plant to one central control, and we all knew that that was different. Right?

COMMISSIONER GOZZI: Right.

MR COOPER: Now the argument, or the contentious issue from our point of view, has always been that they used the older burner No. 4 rate and the responsibility attached to that was basically looking after the kiln and the rise that attended that in terms of the interim rate wasn't sufficient, given all the responsibility that was taken up by the central control room operator.

And that's what's referred to when I referred the commission to that transcript in terms of the inspections, where you actually - you went through and you had been shown the processes involved and the .... which comprised a bended limestone, a hard grain limestone, processes through the kiln all the way to the rail loading, and it appears to me that there are a number of roles played by the central control room operators and the role might be described as a monitoring role as well as an intervention role. The intervention role arising from testing and the like.

So, basically you demonstrate there from those comments that you have an appreciation for the operation.

Now what we are saying in terms of this claim is that when we set the interim rate based on a burner No. 4 operator that the rate didn't go far enough, but being an interim - because we were at a stage then where the operators were learning the new equipment. They were learning the new equipment because it had only just been implemented and were still being commissioned, and we have now come to a point in time where we have gone from the learning stage from a two man operation to a single man operation, and that has been carried out since August last year, and the operators have admitted under evidence that they are still learning on a day to day basis.

So we have a person who has had 15 years' experience as a No. 4 burner kiln operator who has then been integrated into the new system over a 12 or 18 month period, and he's actually picked up the extra work that we've talked about in terms of exhibit C.13, where they have increased responsibility in terms of now not only looking after the kiln but also the cement and raw mills, the quarry from the reclaim section that we have talked to you about, security after hours, reception, the coordination of maintenance and other personnel, and the nature of the work. So I didn't intend to go over all that this morning, you see. I thought I had done that.

COMMISSIONER GOZZI: Just so we can get it maybe together on part of the transcript then. Looking at C.13 where you say some of these indicators include manning levels.

So you are talking about manning levels which saw a reduction from the - well, a conversion from the panel system to a one person operation in the central control room?

MR COOPER: Yes, central control room operation.

COMMISSIONER GOZZI: So, effectively from four through a series of steps down to one?

MR COOPER: That's correct.

COMMISSIONER GOZZI: Right. Any other aspects in respect to that particular -

MR COOPER: With the commissioning of the plant you also saw a reduction in shift by some 20 personnel, as I understand it, over that period of time; and that was managed that reduction in shift was managed.

And what you had then was the devolution of responsibility from all those separate operations to one operator in the central situation.

So you've had that, coupled with as a result of the new equipment and the upgrade and the added responsibility that the operator now manages.

5 COMMISSIONER GOZZI: All right. Well, let's just talk then - and I am sorry to keep going over this - but you are talking about a reduction from four to one which wasn't in place when the interim rate was established.

MR COOPER: No, that's not quite right. No, because what they did, sir, as the interim rate was established they gradually phased out those panels as they  
10 commissioned them into the central control room.

COMMISSIONER GOZZI: So - yes well, was the interim rate actually put in place when there was one in the operating room?

MR COOPER: No, two.

COMMISSIONER GOZZI: Two. So in the context of what happened since the  
15 establishment of the interim rate, there was a reduction from two to one.

MR COOPER: Yes, that happened in August last year. And the interim rate had been in place for some time before that. That's in the central control room itself -

COMMISSIONER GOZZI: Right.

MR COOPER: - the part that you actually went and visited.

20 COMMISSIONER GOZZI: Yes, I understand that. Now the devolution of responsibility, if we take that heading and deal with that a bit further, what you're really saying about that is that the technical operation of the process became the function of the central control room operator.

MR COOPER: The management of that, yes, that's correct.

25 COMMISSIONER GOZZI: Whereas previously it was where?

MR COOPER: Well in terms of the process, you had the burner operators, you had the cement and raw mill operators, and you had the quarry and reclaim. So what you did, you had two panels in the plant, as I understand it, in quarry and - sorry, in cement and raw mills and kiln.

30 COMMISSIONER GOZZI: Right.

MR COOPER: And the fellow on the kiln panel just looked after the kiln.

COMMISSIONER GOZZI: Right. So the operating responsibility changed from those three areas - broad areas of burner operation, quarry reclaim and kiln, to the central control room operator.

35 MR COOPER: That's right. So instead of having a person designated a single task, you then had an integration of those tasks.

COMMISSIONER GOZZI: Yes, all right. So what were the three areas again?

MR COOPER: They were in exhibit C.13, sir -

COMMISSIONER GOZZI: Yes.

MR COOPER: - under the fourth slash there where it's got 'increased responsibility for CCR operators including integration of'. And they're written there.

COMMISSIONER GOZZI: Oh, right. So that's kiln and coal operations -

5 MR COOPER: Cement and raw mills and quarry and reclaim.

COMMISSIONER GOZZI: Right, okay. So they really became integrated in the one central control room operation.

MR COOPER: That's correct.

10 COMMISSIONER GOZZI: Okay. So dealing then with production output, as the second heading there, what did you say about that?

MR COOPER: Well as I understand, sir, it went from 220 tonnes - from 140 tonnes an hour to 220 tonnes an hour.

COMMISSIONER GOZZI: And you say that's attributable to -

15 MR COOPER: Well there's a number of factors that impact on that, sir. Obviously they upgraded the equipment so that allowed a bigger throughput in terms of clinker and raw product. But it also was facilitated by the integration of the whole of the operation to a central unit. So there's two factors. Obviously if they didn't spend the money they wouldn't have been able to increase the production. But if they didn't coordinate it through a single individual it wouldn't happen either.

20 COMMISSIONER GOZZI: Right. Responsibility attached to the CCR - central control room classification.

MR COOPER: Yes, we've -

COMMISSIONER GOZZI: I think we've covered those pretty well.

MR COOPER: Yes.

25 COMMISSIONER GOZZI: And integration of previously separate production areas, which we just talked about in the context of the kiln and coal men -

MR COOPER: That's correct.

COMMISSIONER GOZZI: - kiln and coal operation, cement and raw mills, quarry and reclaim, and the additional security after hours operation.

30 MR COOPER: Yes, that's right. We've got security in terms of the - well you saw those cameras that operate all over the plant.

COMMISSIONER GOZZI: Yes, right.

MR COOPER: And obviously on the back shifts they do handle incoming calls.

35 COMMISSIONER GOZZI: So essentially, they are the broad parameters that you're relying upon to support the application for the increase that you've asked for.

MR COOPER: That's correct. And also in terms of the rest of that you've got the co-ordination of maintenance and other personnel.



COMMISSIONER GOZZI: Yes.

MR COOPER: You've got -

5 COMMISSIONER GOZZI: Well let's just talk about that then. That's on the next page - co-ordination and maintenance and other personnel. What specifically are you talking there?

10 MR COOPER: Sir, what happens is especially on the day shift when it's busy, the central control room operator, through the two way unit that operates on the desk as well as the phone - they've got a two way unit, where people are calling in all the time. And what they do is, they call in and they say to the central control room: We're doing this or we're testing this or - you know - what's happening with that, can we shut this down, can we start this up? And that sort of instruction then is given by the central control room. They say: Well hang on a minute, we can't do that at the moment because this is going on or, yes, I will turn that off now. Give me a call before you start it again. And so they co-ordinate and assist the maintenance personnel in their daily activities.

15 COMMISSIONER GOZZI: All right. And I can go to the evidence that was given in respect to that particular function.

MR COOPER: That's correct, yes.

20 COMMISSIONER GOZZI: All right. And the nature of the work performed generally in the CCR, I think that's been covered adequately, I think.

25 MR COOPER: I think so, sir. And the point that I was making in terms of this morning, I was reinforcing that the nature of the work performed generally there's a component of that that's difficult to quantify. And that is linked to the experience that the operator brings to the job, given their previous experience with Goliath operations. And we heard from Mr Hampton in respect to his services and we heard from Mr Parry about that as well.

30 COMMISSIONER GOZZI: Right. Mr Cooper, you've asked me to look at this in the context of work value, and the wage fixing principles, I think, talk about significant net addition. I think what you're saying to me is that it's not so much a significant net addition as opposed to establishing the rate appropriately having regard to all these facts.

35 MR COOPER: That's correct. In the first instance, sir, what we're saying was we had an interim rate and what we should have done, I suppose, at that point in time was do this then, but we didn't. And we didn't for a number of reasons because the commissioning was new and in the first 12 months there were a lot of problems in respect to that commissioning. They have now settled down. We are now in a better position to get a better idea of how the plant is going to operate once everything has settled down. There was a few problems with the commissioning of the work, through the contractors that were engaged and there were a few problems in organising the whole of the operations from the central control room. They have now settled down to a degree.

40 COMMISSIONER GOZZI: Okay. I think the wage fixing principles also allow, in the context of establishing a new classification rate - I assume that this is a new classification rate in the context of what happened with restructuring. Is that correct?

45 MR COOPER: That's correct.

COMMISSIONER GOZZI: So when Commissioner Imlach restructured it at that time this was a new classification in the award.

MR COOPER: That's correct.

5 COMMISSIONER GOZZI: Right. Well in that context I think the principles allow comparisons outside the award to be made. Now have you any detail - information of what might be an appropriate comparison?

10 MR COOPER: Sir, we had a look at that and the difficulty we found was that there was no one operation that we could bring to bear that would be completely useful in terms of analogy. For instance, in ....., which has been talked about a lot on site, there is similar work performed but they have two production streams. So - you know - we could go and have a look at that, but that would actually require - you know - detailed submissions in respect to that.

So what we thought we would do, we would take the commission through and let the decision be made in respect to the merit of the case as it relates to Goliath.

15 COMMISSIONER GOZZI: All right. Well if we do that - and I take it that the parties have agreed to that process. And certainly from an applicant point of view - from an applicant point of view, you are saying that you want to do it on the basis of what you have put forward. What about then the impact on relativities in the award? I mean, how does this impact in respect of the 100 per cent tradesperson's rate? Where do you see that this classification could sit in the context of that rate?  
20

MR COOPER: Sir, in terms of that there are a number of ways we could deal with that. If the claim that we've put up was agreed, then the relativity that assigned would be 150 per cent. In terms of that then the commission, I suppose, would have to satisfy itself that that was legitimate.

25 In terms of those relativities, they don't necessarily have to be disturbed. What could be awarded for the difficulty associated with the job is a rate that attaches itself to the job without disturbing the relativities, in terms of the supplementary payment.

30 COMMISSIONER GOZZI: And with respect to the grade 6's and 5's, I think it has been established now that in the event that there was a change in the grade 7 rate, that virtually a mixed functions type process would apply to those other classifications in the event they worked in the central control room. Is that right?

35 MR COOPER: That's correct, sir. But what we did say was we would fix - we would go through the process in terms of the central control room operations and if there was an increase that attended that, then we would deal with the others separately, although they are, in broad terms, part of this application. But we don't intend to deal with them as part of this application. We seek an outcome in respect to the central control room work.

40 Now obviously if then someone relieves there would be some consideration that will need to be made. But as we said earlier in this 5469, that there is by virtue of the relief work that is carried out there an integration between what is currently level 7 and level 6. So I mean, we could deal with that at a later stage, I would imagine, not as part of these proceedings.

COMMISSIONER GOZZI: How would you deal with them at a later stage?

45 MR COOPER: Sir, what we would say is, we would say is that we would like you to look at the function central control room operator as part of these proceedings. And

then, obviously if - sir, the concept of mixed functions is one that doesn't sit very well with the competency based career path, as you would be well aware, right?

COMMISSIONER GOZZI: Yes.

5 MR COOPER: So what we would like to do then is work out basically where we are with central control, and then if as part of level 6 - the level below central control, we find that a fair degree of the work is in central control, then we would like to either sit down and negotiate with the company. If we couldn't we'd come back to the commission and say, look, as part of the restructure process, level 6 spends 30 per cent of his time in the central control, or doing level 7 work, rather than have a mixed  
10 functions clause apply where he goes up and down, we would see it would be appropriate to assign to that classification an appropriate increase.

COMMISSIONER GOZZI: So in terms of your application then, where you're talking about conducting a review of production employee classifications in respect to, and associated with the central control room operator, you're now saying that we're really  
15 just looking at level 7, not -

MR COOPER: Sorry, sir, yes, that's right. I thought I made that clear to start with. I apologise if I didn't.

COMMISSIONER GOZZI: Yes. Well I just wanted it in summary so we've got it all together in one part of the transcript. Anything else that you want to raise?

20 MR COOPER: No, sir.

COMMISSIONER GOZZI: I think that's all I want to bring forward. Thank you, Mr Cooper. Mr Targett?

MR TARGETT: Thank you, commissioner. Perhaps based on the information that's been provided just in the last 10 or 15 minutes in response to a question from  
25 yourself, I'd like five or 10 minutes just to address those things before I start my submission, so that I can prepare a response. So perhaps a short adjournment?

COMMISSIONER GOZZI: Yes. Well you'll let Mr Hunter know when you're ready to go?

MR TARGETT: Thank you, yes.

30 COMMISSIONER GOZZI: We'll adjourn for a minute, thank you.

#### **SHORT ADJOURNMENT**

COMMISSIONER GOZZI: Mr Targett?

MR TARGETT: Thank you, commissioner. Firstly, I'd seek to just make a few  
35 comments in relation to the agreement that has oft been spoken about between the TCCI and the unions in relation to these proceedings and work value matter that is currently before you.

T.4927 of 1994 was an application made by the Tasmanian Chamber of Commerce and Industry to restructure the Cement Makers Award. And that restructuring was to be undertaken in accordance with the wage fixing principles under structural efficiency  
40 and award restructuring.

Throughout those proceedings - and reference can be made to transcript, but I don't intend to laboriously take you through the old transcripts. I will take you to one point

to illustrate the issue. But throughout those proceedings on numerous occasions it was made clear to the commission that the union had reserved its right in relation to the position known as the central control room operator to argue a work value case after the finalisation of the award restructuring process.

5 We also made it clear throughout the proceedings that whilst we believed the rate that had been struck was appropriate, we recognised that the union had reserved its right to argue under the work value principle a rate higher than that which was in the - well going to be put into the award. And at no time - and I would strongly submit, at no  
10 anything other than what the company believed to be appropriate, whilst still recognising that the union didn't accept that and had reserved their rights.

In relation to the transcript that applies to T.4927 of 1994, the last mention of the reservation on the part of the union - and I'm referring to the last instead of all points - was made on page 61 of that transcript. On the 13th July 1994 is the hearing date.  
15 And I would quote briefly from that transcript:

*There is some changes in the variation that do by their very nature require us to continue on with our commitment to do a work value in the central control room, and that is something we have foreshadowed very early on in this piece, and that is something that is going to continue. That by its very nature is a huge task. We  
20 have been involved in that and the information that has been provided to us is fairly significant. The work value will be conducted by the union, hopefully in the near future, once the information that we have is organised in a manner that can be presented to the commission so they can clearly understand the arguments. That is going to be undertaken and I foreshadow that.*

25 That is a quote by Mr Cooper on that particular day. We supported that position by Mr Cooper in his reservations. So in the application being lodged for these proceedings, I make it clear that we support Mr Cooper's application to have the matter determined. We in no way want that to be seen as supporting his contention that the current award rate is wrong.

30 I'd next move on to make a few comments about the wage fixing principles, and I guess most people would expect me to do so, it far be it for me to disappoint anybody.

I would commence, commissioner, by referring to the - I will be using the current wage fixing principles of the 20th December 1994 and I will be quoting from Principle 11, which is headed Work Value Changes.

35 I would preface my comments by saying that I have looked back through the wage fixing principles of this commission and compared the work value principle in the December 1994 Principles with the work value principle that has existed through the previous issued principles of this jurisdiction, and can advise the commission that in  
40 fact the principle is unchanged right throughout the principles that have been issued except for those principles that were issued on the 30th October 1989 when the only change that occurred was the datum point for determining whether variations had taken place to the work. But other than that the principles do remain constant all the way through.

45 So to ensure that no one believes I'm trying to use the wrong set of principles they are consistent.

COMMISSIONER GOZZI: Yes, I think the '89 principles proposed the datum point from the conclusion of the SEP exercises, whereas previously the datum point went back - I can't recollect now - I think it went back to about 1983 or '84.

5 MR TARGETT: It certainly was a number of years earlier - yes, that's correct, commissioner.

COMMISSIONER GOZZI: Yes. Yes.

MR TARGETT: But that is the only change in the principles.

10 COMMISSIONER GOZZI: So in effect you're saying that we're operating in the context of this exercise with a datum point subsequent to the conclusion of the SEP exercise in respect to this award. Is that the net effect of what you're saying?

MR TARGETT: No, I think that would perhaps take it one step too far, but it would certainly be in my favour if we did use that point in -

COMMISSIONER GOZZI: Well I think that's what the principle in fact implied. That -

MR TARGETT: They do.

15 COMMISSIONER GOZZI: Yes.

MR TARGETT: The only qualification I put on that is that the union had consistently reserved its rights -

COMMISSIONER GOZZI: Yes. Well I -

MR TARGETT: - all the way through the process.

20 COMMISSIONER GOZZI: Yes. Yes. And you're not seeking, as you've indicated - I mean - so what you're saying, the datum point really is what?

MR TARGETT: To me, I believe the datum point effectively is as the award stood immediately prior to the restructuring process that has taken place concluding on the 13th July 1994.

25 COMMISSIONER GOZZI: So it really -

MR TARGETT: The award stood at that point with a set of classifications different to those that currently exist.

COMMISSIONER GOZZI: Mm.

30 MR TARGETT: And those classifications in effect hadn't varied for a number of years save for 4 per cent increases and the like. But the essence of the classification structure and the value of the work contained within those classifications hadn't varied.

COMMISSIONER GOZZI: Really, for practical purposes you could almost say - or you could say that the datum point probably would be October 1989.

35 MR TARGETT: Yes, subject to my comments, commissioner, I would agree that for the sake of the exercise you could make that comment but I don't want to be seen to be trying to undermine the reservations that we agreed to on the part of the union.

COMMISSIONER GOZZI: No, fair enough.

MR TARGETT: Referring to the work value change principle, commissioner, whilst I don't - I do intend to quote parts of it, I won't quote it all and bore everybody.

Firstly, I would seek to quote 11.1 of that particular principle - and I quote:

5 *Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in wage rates is that the change in the nature of the work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification or upgrading to a higher*  
10 *classification.*

*These are the only circumstances in which rates may be altered on the ground of work value and the altered rates may be applied only to employees whose work has changed in accordance with this principle.*

15 I will come back to the points that I raise in further submissions but I wish to raise them as specific issues for reference later.

11.2 - and I quote:

20 *Where new or changed work justifying a higher rate is performed only from time to time by persons covered by a particular classification or where it is performed only by some of the persons covered by the classification, such new or changed work should be compensated by a special allowance which is payable only when the new or changed work is performed by a particular employee and not by increasing the rate for the classification as a whole.*

25 I think it's appropriate to make the point at this stage, commissioner, that certainly in our submission that particular principle is relevant to the discussions that took place between yourself and Mr Cooper in relation to grade 5 and grade 6 classifications and any impact that an alteration to grade 7 may have.

COMMISSIONER GOZZI: Well -

30 MR TARGETT: But certainly in our submission, and we will make comment on it further later, any alteration to grade 7 submissions - grade 7 classifications - would impact on the lower levels under the mixed function clause which is contained within the award and was in fact altered marginally and agreed to when the award was restructured so that the impact occurs when they do the work at the higher level.

35 COMMISSIONER GOZZI: Well I tried to draw Mr Cooper on that and you heard what he said. I mean I think you could probably - if something happens in respect to level 7 you could probably expect a knock on the door and to do something with those other classifications.

MR TARGETT: I certainly did hear what Mr Cooper had to say on that particular issue, commissioner, and I'm happy - I was going to make comment on it and I think it probably appropriate to do it now.

40 There is no way in which I can prevent Mr Cooper from seeking to make an application to vary the award in relation to grade 5 or grade 6 but I make the point very strongly and I'm happy to do so on record, that there is no agreement between the TCCI and the AWU-FIME Amalgamated Union for grade 5 and grade 6 to be 'work valued' and in

fact the classification and relativities that are contained in the award currently were consented to by the union and therefore if they seek to make any changes via work value or anything else to those classifications or relativities they will have to do so with a substantiation of a net change to the work since they were inserted into the award.

5 COMMISSIONER GOZZI: In other words, the application to the datum point subsequent to the structural efficiency exercise?

MR TARGETT: Absolutely. Because the classifications and relativities were inserted by consent. So certainly they can lodge an application but they should be on notice that the tests are most significant.

10 In 11.4 of the Principles, and I quote:

*Care should be exercised to ensure that changes which were or should have been taken into account in any previous work value adjustments or in a structural efficiency exercise are not included in any work evaluation under this principle.*

15 I think it's most relevant to comment - end quote - it's most relevant to comment on that principle because I believe it in itself has direct bearing on this particular case, save and except the agreement that existed between the parties for the work value to be undertaken.

20 In fact I would argue that if that agreement between the parties had not existed, the principle under 11.4 would exclude Mr Cooper arguing 95 per cent of the arguments that he's already put forward. So I would put to the commission in submission that it should not be deterred by Principle 11.4 in determining the matter on its merits based on the - based on the work as being required of employees in the central control operator position from the change of the plant or the commissioning of the new plant.  
25 And I don't believe 11.4 in these specific circumstances should prevent the commission from processing this matter fully.

Under Principle 11.5:

30 *Where a significant net alteration to work value has been established in accordance with the principle, an assessment will have to be made as to how that alteration should be measured in money terms. Such assessment should normally be based on the previous work requirements, the wage previously fixed for the work and the nature and extent of the change in work. However, the Commission will all also take account of the relativities and the integrity of the internal award classification structures and the external classifications as to*  
35 *which that structure is related.*

I do intend to make reference to that on a number of occasions through the submissions, commissioner, because I believe that particular principle of all of them is the most relevant to the application being pursued by the union. And I will refer back to that particular point on a number of occasions.

40 In relation to the principles - and I don't intend to quote any further from them - but I would just like to make in broad terms the following point: the union has an onus to justify an alteration to the rate which is contained within the award, in our submission.

5 The principles require that the unions show that there's been a significant net addition to the work requirements as to warrant the change, and in saying that I accept that the assessment may be made from the previous occasion of burner, to the new classification of central control room operator, but there has to be shown a significant net addition to work and then if it is considered there has been a significant net addition to work, what dollar value should be fixed to that addition.

10 COMMISSIONER GOZZI: So this is where I've got the problem in this exercise. You see, Mr Cooper is really saying that the rate wasn't properly established in the first case - in the first instance. And if you follow the logic of that through what he's saying, that doesn't necessarily imply that there needs to have been a significant net addition to the work. He's simply saying, look, it wasn't set right in the first place. And whilst there may - he's not saying there hasn't been any net addition - but in that scenario it's not necessary that there has been any change at all. He's simply saying, look, we put it - set it on an interim basis, it's not right, this is the full gamut of what's now involved, I should have regard for that on the basis it may have been under valued in the first instance.

20 Now it's important for me to understand where you're coming from in respect of the reservations that were made by the union, and it has been my understanding that the reservation made by the union in the previous exercise was that they were not happy with the rate that they would in fact seek to have it reviewed and whilst that review might take place or will take place in accordance with the work value principle, it was not necessary that really a net addition to work needed to be established as opposed just to establishing the correct rate.

25 And there is an important difference there because you're very firmly putting to me significant net addition, whereas Mr Cooper is saying it wasn't set right in the first place.

30 MR TARGETT: I don't think necessarily, commissioner, those two points are mutually exclusive and I'll explain why. At the time that the interim - and I'll call it an interim rate for the sake of the discussion - at the time that the interim rate was set by consent between the AWU-FIME Amalgamated Union and the TCCI on behalf of the company, discussions took place over a position which was to arise - had not yet arisen - of central control room operator which was seen to be a position higher than the existing position in the award of burner. Burner was the classification that was being used by the company -

35 COMMISSIONER GOZZI: In July '94?

MR TARGETT: No, this goes - well, let's go back to May 1992 when the interim rate was in fact struck. The interim rate between the company and the union was struck in May 1992 and that was prior to the bringing on line of the new plant and the central control room.

40 COMMISSIONER GOZZI: Right. Okay.

MR TARGETT: We knew it was going to happen so instead of waiting for the date it was done previously.

COMMISSIONER GOZZI: And -

45 MR TARGETT: And the assessment for that interim rate, whilst perhaps looked at differently by the two parties, was quite clearly discussed around what the work was going to be in the central control room. And it was considered by both parties that the existing burner classification was insufficient therefore there was a requirement to create a new classification because there was additional work.



Now even though it was the - it was establishing an interim rate, we had already commenced discussions on the restructuring of the Cement Makers Award. And it was considered appropriate not to vary the old classification structure but to wait until we put the new classification structure in the award and we would then include the central control room operator -

COMMISSIONER GOZZI: Mm.

MR TARGETT: - instead of confusing old and new. So when we looked at establishing that interim rate, we were in fact looking at creating a new classification structure. Be it under the old structure or the new is, in effect, irrelevant. It was a new classification structure or a new classification because of an addition in the work and a change in the work that was being undertaken by the burners.

The work value principle that I have been quoting from was in existence well before May 1992 and if this exercise had have been undertaken in May 1992 before the commission, it would be under the work value principle because it was an addition and a change to work of a burner and the establishment of a new classification structure which is specifically catered for under the work value principle - specifically catered for.

So the interim rate was established. The union had reservations about it and said they wished to have it work valued, and we accepted that. It could have been done in May 1992 under the old classification structure but for convenience sake we agreed to leave it, but that in my view does not let the union out of a requirement to comply with the work value principles, which were in existence then and the same ones are in existence now.

COMMISSIONER GOZZI: Yes, I understand all that, but I am not sure how you then overlay on top of all you have said the requirement that demonstrates significant net addition to the work - to the value of the work.

I mean, doesn't it simply come down to a review of the rate based on what the requirements were then and may be now? Because, fundamentally, the requirements may not have changed.

I mean, there was an understanding that the rate was set on the basis that it would go down to a one person operation; that there would be all the functions of this interim the central control room operator, which I have inspected; and so in that context it would be hard to demonstrate any significant net change.

It simply comes down to saying, doesn't it, that the rate when it was set may not have been valued appropriately in the light of all the factors referred to previously.

MR TARGETT: I agree with that point, commissioner; and if we then say was the rate, the interim rate, the current rate, whatever we are going to call it, they are all the same, was the interim rate set correctly in the first place and if that is what you are reviewing then you have to review that against the background of how is that rate, or how was that rate established, to determine if it was correct or not.

COMMISSIONER GOZZI: Well, if I use the burner classification as the base, then really and in the absence of any significant net addition or a significant net requirement of the job, doesn't it then simply become an assessment of whether it was right or wrong?

I can't really go, can I, to any significant net addition because there hasn't been any.

MR TARGETT: Not since the interim rate was put in place, we will be arguing.

5 COMMISSIONER GOZZI: Well, I don't think there is a dispute between you and Mr Cooper. I mean, Mr Cooper is simply saying, look, in light of the circumstances, this is now what is required, this is what's happened, and, yes, I ought to put weight upon experience in the control room and the experience of the operator. He's outlined in documentation some other functions there.

But, essentially, isn't it to determine whether or not the rate was properly put in place in the first instance, which doesn't necessarily imply a net addition to work value requirements?

10 MR TARGETT: I accept that it is an assessment of whether the original rate was correct, but it is now we determine whether that original rate was correct, and what I am saying is, that in the establishment of that new classification for which the rate about which we are now discussing, or arguing, is the subject matter in assessing whether that was correct.

15 There has to be some methodology for determining that. That has to be measured against something.

COMMISSIONER GOZZI: Yes, and that's why I'm harping on this point.

20 Isn't it simply a case of saying that when the burner classification was in place that I should use that as the datum point and I should assess against that datum point the work value changes which have arisen and the changes in the nature of the work from that point onwards, and to determine whether or not you went far enough in establishing the interim rate or not; which has nothing to do, which has nothing to do with looking at a significant net addition to work requirements since the establishment of the interim rate whenever it was established in May 1992?

MR TARGETT: And that is what I am saying.

25 COMMISSIONER GOZZI: But you're heading me down the track -

MR TARGETT: No, no. That's what I am saying.

30 COMMISSIONER GOZZI: -Well I just want to get it clear. I thought you were heading me down the track to say that since the rate was established it was up to Mr Cooper to demonstrate significant net addition to work requirements, which is a different argument.

MR TARGETT: Well, what I am saying - and I will try and bring it down to its absolute minimum - what I am saying is Mr Cooper has an onus to demonstrate a significant net addition to work on the burner rate.

COMMISSIONER GOZZI: Right.

35 MR TARGETT: And that will determine whether the interim rate established for the central control room operator was correct.

COMMISSIONER GOZZI: Yes, but that doesn't necessarily imply any significant changes in the nature of the work since the interim rate was established.

MR TARGETT: In fact, we would argue there has been none.

40 COMMISSIONER GOZZI: Well, fine. Okay, I'm clear. So that you're agreeing that the datum point for the review is the burner classification and we are looking at the measurement of addition to work requirements from the change between the burner rate and the central control room classification.

MR TARGETT: To determine if the rate set was correct.

COMMISSIONER GOZZI: Right. Okay. So we are looking at the worth of the changes between the two classifications.

MR TARGETT: Yes.

5 COMMISSIONER GOZZI: Well, I think we are all on the same wave length.

MR TARGETT: Moving on from that, commissioner, what I would like to do is then go to explain in some detail what in fact was put in place in May 1992 as far as rates are concerned.

COMMISSIONER GOZZI: We'll mark that exhibit TCCI.1, I think.

10 MR TARGETT: Could I have them each page separately, commissioner, just to be a nuisance?

COMMISSIONER GOZZI: Right. So, grade 5, TCCI.1?

MR TARGETT: Yes.

COMMISSIONER GOZZI: Grade 6, TCCI.2. Grade 7, TCCI.3 and grade 8, TCCI.4.

15 MR TARGETT: Thank you, commissioner, and first we would like to refer to TCCI.2, and the reason I go to that number first is that happens to be the 100 per cent rate which currently exists within the award; and I intend to use that as the basis of a substantial amount of the submissions.

20 The object of this particular exhibit is to demonstrate the makeup of the grade 6 production employee rate both in terms of the award and in terms of the interim rate that was established in May 1992, and in terms of the rate of pay that is currently being paid.

25 It starts with the base rate of \$365.20 which is the base rate contained within the Cement Makers Award, and adds to that rate the Supplementary B of \$52.00 to give a total of \$417.20.

We then move to Supplementary B which is the first \$8.00 increase under the wage fixation principles which moves it to \$425.20, which obviously is what is colloquially known as the base trades rate throughout all awards.

30 I stress that is only after the first \$8.00 increase. There is a second to go obviously at some stage, perhaps.

COMMISSIONER GOZZI: Yes. So in your case Supplementary B is the December '94 adjustment?

MR TARGETT: That is correct, commissioner, yes.

35 COMMISSIONER GOZZI: Right. And you're not saying anything about the June '95 one?

MR TARGETT: Well, I understand that has all been put off to a full bench, commissioner, so I wouldn't dare say anything about that.

COMMISSIONER GOZZI: Right. Okay.

MR TARGETT: The next line on the exhibit, commissioner, is entitled 'Excess Payments' which under the award is shown as Clause 9 - Additional (Excess) Payment which for a grade 6 employee is an amount of \$20.70, giving a total payable under the award for a grade 6 employee of \$445.90.

5 And I have, if you look at the box at the bottom of that page, commissioner, put that in as the award rate.

And in reference to the 100 per cent rate throughout the submissions I will obviously be referring that back to the \$445.90 as far as the award is concerned.

10 In addition to that there is an over award payment payable at Goliath to a grade 6 employee in the context of the central control room process attendance, etc., of \$10.80, moving it to \$456.70, and I will at a later stage explain that in more detail.

So \$456.70, and then in addition to that there is an agreement which relates to a 4.5% wage increase of \$20.60 giving a total amount of \$477.30.

15 MR TARGETT: And for the sake of this exercise, at the box at the bottom of the page, I've called that the company rate. So there are three important totals on that page in the overall scheme of things. There is the total of \$445.90, which I'll call, as I said, the award rate. There's the total of \$456.70, which for the moment I'll call the interim rate. And there is \$477.30, which is the company rate.

20 If I now move the commission to TCCI.3, which is an identical exercise for a grade 7 employee. And I've put at the top of the page that is 105 per cent, that is the relativity contained within the award for the grade 7 employee. And by way of further explanation, the grade 7 production employee is currently the central control room operator.

25 The rate for the grade 7 is made up as follows: the base rate and supplementary payment (a), giving a total of \$438.10. We then add on the \$8 supplementary payment (b), giving \$446.10. And the additional excess payment from clause 9 of the award, to give a total of \$468.20.

30 In addition to that, there is an over award payment being paid in relation to grade 7, of \$11.30, which gives a total of \$479.50, which once again I will call the interim rate. And I use that terminology because it writes directly back to the interim rate established in May 1992. And in addition to that amount there is a further 4.5 per cent increase paid through an agreement, which I'll get to later, giving a total payment of \$501.10 as the company rate.

35 For the sake of completeness, commissioner, I have included TCCI.1, which is Production Employee Grade 5 and TCCI.4, which is Production Employee Grade 8, the 110 per cent rate, which is the rate under the award that applies to a central control room operator who has completed a certificate in cement manufacturing. And there will be reference to that a little bit later.

40 COMMISSIONER GOZZI: Just before you leave those. A certificate in cement manufacturing. Now whilst you've given me the relativities in those exhibits, the bottom line is however that those relativities are different when you look at the company rate.

MR TARGETT: Except for a marginal variation, commissioner. Because of flat increases and flat amounts it is virtually the same.

COMMISSIONER GOZZI: All right. So for all intents and purposes then, looking at what employees actually receive, those relativities - the company rate relativities reflect those for the award rate relativities, do they?

MR TARGETT: Near enough, yes.

5 COMMISSIONER GOZZI: Near enough to, okay.

MR TARGETT: But I make the point, commissioner, that within the company rate are over award components which can't been seen and we have never said will necessarily be ensconced in perpetuity. That is why I continually make the point that it does get back to the award relativity as being the fundamental issue. Because the  
10 over award component contained in - and I'll refer to TCCI.3, as that is the main classification that we're talking about, the over award component within that grade may disappear into the future through wage increases or changes. That has been made clear to everybody throughout the award restructuring process.

COMMISSIONER GOZZI: All right. Well let's just make that very clear then. So are  
15 you saying that in the event an increase is determined for grade 7 as a consequence of these proceedings, that the over award component may be absorbed against that increase?

MR TARGETT: Yes, commissioner, that is what I'm saying, definitely.

COMMISSIONER GOZZI: And what about the 4.5 per cent?

20 MR TARGETT: No, that is an agreed increase through an enterprise bargaining process, which is untouchable as far as we're concerned.

COMMISSIONER GOZZI: So the 4.5 - just getting off the subject for a minute, the 4.5 per cent increase you might argue in the \$8 adjustment case that's coming up, that that's already comprehended in the 4.5 per cent.

25 MR TARGETT: Absolutely, that is correct.

COMMISSIONER GOZZI: Right. Now if you absorbed that over award component, what's that do in respect of the relativities then in real terms to the take home rate of employees in these various classifications?

MR TARGETT: Well the position that we -

30 COMMISSIONER GOZZI: Well let me just put the question to you. Doesn't that mean then that you'd distort the relativity in real terms?

MR TARGETT: No, because if you adjust the - if you made a new rate for a central control room operator, it would then depend on how that new rate was built. But  
35 secondly, the mechanism of future increases, for example, via a round of enterprise - a further round of enterprise bargaining, which is obviously in the very near future, would take into account - or may take into account those over award payments would depend on once again how we built a new increased amount.

So it is not just a simple matter of, yes, it is absorbed. It is a matter to be negotiated as we go through time. And that is the position we've consistently put to the unions.  
40 The over award payment is there and how it will apply in the future will be determined through ongoing negotiations as further increases come up and how other matters impact on whatever happens. It is not a cast iron guarantee. It may be that it remains. It may be that it is absorbed, and has been left fluid through all of the negotiations.

COMMISSIONER GOZZI: All right. Are you saying to me then, in the context of this exercise, I really need to focus on what has been called the award rate?

MR TARGETT: Yes, I am.

5 COMMISSIONER GOZZI: And the increase, if one is determined, ought to be based on the award rate.

MR TARGETT: That is correct. And I will be making submissions a little bit further on.

COMMISSIONER GOZZI: But Mr Cooper's claim's not predicated on that.

10 MR TARGETT: Well I intend to also address his claim in some detail as well, which I don't believe he's done, and have a look at exactly how that is made up.

COMMISSIONER GOZZI: I mean, he's looking at the 501 company rate and basing his claim on an addition to the company rate.

MR TARGETT: That is correct, but I think that's -

COMMISSIONER GOZZI: But I'm clear - you're saying -

15 MR TARGETT: - with all due respect to him, far too simplistic an approach to take in asking for a pay rise in the circumstances.

COMMISSIONER GOZZI: Well he wants to leave everything else in place obviously and you don't.

20 MR TARGETT: He may want all he wishes. I intend to address the specifics of what should or shouldn't be done in relation to that.

COMMISSIONER GOZZI: All right. But from your point of view I ought to be focusing on the award rate. Mr Cooper is saying I ought to be looking at the company rate.

25 MR TARGETT: Yes, and in fact I'm going back to a point I made in previous proceedings before you in a dispute matter, where in fact I argued that you should be concentrating on the relativity as opposed to the dollars, because the dollars flowed from the relativity that is established. And we would argue that in fact you should be concentrating on the relativity. And the reason - and I go back once again to the principles - the work value principle in 11.5, where it specifically says that: However  
30 the commission will also take account of the relativities and the integrity of the internal award classifications.

And in taking that into account it is my submission that the most appropriate method is the relativities. The dollars hinge on the relativities anyway. The money amount hinges on the relativities anyway.

35 COMMISSIONER GOZZI: Yes. But I keep coming back to the point that I'm reviewing an interim rate.

MR TARGETT: But you still have to review that in the context of the integrity of the award.

40 COMMISSIONER GOZZI: Well if there's a fundamental error in establishing the interim rate - I'm not saying there was, but if that is the case are you saying because it might distort the relativity I shouldn't do anything?

MR TARGETT: No, what I'm saying is that if there was a fundamental error, then you would be restoring the integrity of the internal relativities, surely. Because if there is a fundamental error in the original establishment of that rate, then there is already a distortion and you would be required to correct that distortion.

5 COMMISSIONER GOZZI: Well the bottom line would be that the pre-existing relativities wouldn't apply any longer.

MR TARGETT: You would establish new ones.

10 COMMISSIONER GOZZI: I must say I've only dealt with this award for a short time and I'm not very happy that - you know, the way it's sort of constructed, quite honestly.

MR TARGETT: I'm happy to say, commissioner, that I support those comments one hundred per cent. And I think, in fact, I can accurately quote from transcript of the original T.4927 of '94 where every party to the award would support those comments.

COMMISSIONER GOZZI: All right, well let's move on then.

15 MR TARGETT: Thank you. The next exhibit I would provide, commissioner, is an agreement.

COMMISSIONER GOZZI: Exhibit TCCI.5.

20 MR TARGETT: I provide this to you, commissioner, for the sake of completeness and to put some context into the matters that you are assessing. And the agreement that is contained in TCCI.5 is, in fact, the agreement reflecting the 4.5 per cent wage increases that apply at Goliath to their employees. You will note that the document I've provided you hasn't yet got all the signatures on it. That is hopefully nearing completion. But I would advise that, in fact, the 4.5 per cent, despite the tardiness of getting signatures, is, in fact, being paid at the site to all the employees.

25 COMMISSIONER GOZZI: I note it hasn't been approved or registered yet either.

30 MR TARGETT: That is correct, commissioner. It shows the great concern the company has of ensuring that it's employees are treated properly despite the tardiness in getting signatures. So for the sake of completeness, we do provide that to you to put into context the wage rate that has been established in TCCI.1 through 4 exhibits, and it is merely that 4.5 per cent contained at the bottom of each of those pages to give the final line to the company rate.

COMMISSIONER GOZZI: Mm.

35 MR TARGETT: I will refer back to that document - no, perhaps I'll take it to you now, commissioner. Part way through that document you'll find a page headed 'Schedule A'. Unfortunately the pages aren't numbered ....

COMMISSIONER GOZZI: Right, schedule B - schedule A, yes.

MR TARGETT: And I would refer you, commissioner, firstly to the preamble which says, and I quote:

40 *The proposal contained in these documents are predicated on the following points which are mutually inclusive and to be taken as a whole, (a package proposal).*

And if I take you to the eighth dot point, and I quote:

*The objective of the Company is to have only one Central Control Room Operator.*

5 It was implicit within the overall context of the negotiations of enterprise bargaining and the overall discussions that took place from the very beginning of the change to the plant, that there would be one central control room operator within the central control room, which was restated through the 4.5 per cent wage increase negotiations. And once again I will draw the attention of the commission to that again at a later stage. But it is an important point to make at this stage.

10 Now the next one I'd like to provide is a document that I took the liberty of drawing up. And I've, in fact, titled it the 'Union Claim'.

COMMISSIONER GOZZI: Exhibit TCCI.6.

15 MR TARGETT: What I've done, commissioner, in TCCI.6 is, in fact, put together in exactly the same format as the TCCI.3, the grade 7 central control room operator rate, in exactly the same format the claim that has been made by the union.

COMMISSIONER GOZZI: Just bear with me. I thought I had the file here a moment ago. I'm sure I did. What have I done with it? I might have taken it with me when we adjourned. Could you just get it for me? Sorry, Mr Targett, we'll just hold you up for a minute. I remember talking about this last time we met. Right, thank you, Mr Targett.

20 MR TARGETT: Thank you, commissioner. I'd firstly draw the attention of the commission to the right hand column - the bottom right hand column which has an amount of \$701.10, as being the rate payable to the employee under the union's claim at the end of all of the makeup that I will go through in a moment. That \$701.10 is exactly the same as the claim made by the union in their exhibit C.13.

25 COMMISSIONER GOZZI: Yes, I think we talked - yes. We talked about this. Yes, Mr Cooper was talking about average rates, wasn't he?

MR TARGETT: If I - in discussing TCCI.6, commissioner, it may be appropriate to also refer you to exhibit C.13.

COMMISSIONER GOZZI: Right, just let me get that. Right, C.13.

30 MR TARGETT: And, commissioner, I draw your attention to the second page of that particular document.

COMMISSIONER GOZZI: That's the same as the document with the application.

MR TARGETT: I'm not quite sure.

COMMISSIONER GOZZI: Oh no, it's right.

35 MR TARGETT: In fact, I didn't receive a document with my application.

COMMISSIONER GOZZI: No, that's okay. No, it's not. That's okay. Right.

MR TARGETT: Throughout Mr Cooper's submissions, commissioner, he did make quite clear that the second page of exhibit C.13 -

COMMISSIONER GOZZI: Yes, that's right.



MR TARGETT: - was the claim.

COMMISSIONER GOZZI: Yes.

MR TARGETT: And I draw your attention to the top of C.13, page 2. It says:

The current wage rate of \$501, and the proposed rate would be \$701.

5 COMMISSIONER GOZZI: Right.

MR TARGETT: I then draw your attention back to TCCI.3, which is the current grade 7.

COMMISSIONER GOZZI: Right.

10 MR TARGETT: And \$501.10, in fact. Now Mr Cooper made the point through his submissions that he was looking for a \$200 a week wage rise. I left it at exactly \$200 for the sale of expediency and put together TCCI.6 on a \$200 a week wage increase, moving it to \$701.10.

COMMISSIONER GOZZI: Right.

MR TARGETT: I then also -

15 COMMISSIONER GOZZI: Sorry - so really the average amounts in the brackets we can discard those -

MR TARGETT: Yes.

COMMISSIONER GOZZI: -because that's simply a - okay.

MR TARGETT: The makeup of that averages on shift rates and things like that.

20 COMMISSIONER GOZZI: Yes, okay.

MR TARGETT: So I would ignore those altogether. Now Mr Cooper also made the comment through his submissions that his claim was a \$200 wage increase, which was moving the relativities to 150 per cent. And I'm pleased to say in checking his maths it is, in fact, 150 per cent.

25 So to put the things into context, I've done the comparison between TCCI.3 and TCCI.6. The 150 per cent relativity means we have a base rate of \$547.80, with a supplementary payment (a) of \$78, giving a rate of \$625.80. We then add on the \$8 supplementary payment (b), to give a rate of \$633.80, an excess payment. Because the excess payments in clause 9 are based on relativities we can actually extrapolate those  
30 figures. So the excess payment from clause 9 of the award would be \$31, giving an award rate of \$664.90.

I then put in place a 4.5 per cent wage increase - if you move to the last line - to comply with the agreement, of which you have a copy, which left the union's claim \$6 shy of 150 per cent. So out of generosity, instead of taking the \$6 off their claim, I put  
35 it in as an over award payment to make sure at the end of the day it did actually tally up.

So to put into perspective the union's claim in relation to what currently applies within the award, TCCI.6, I think, does that in quite specific detail for your assistance.

COMMISSIONER GOZZI: Very good.

MR TARGETT: Now we have a union claim of moving the central control room operator to 150 per cent. I'd now like to move into a bit of a discussion on that 150 per cent relativity in the context of the Cement Makers Award. And in doing that, commissioner, I would like to refer to the definitions that are contained within clause 7  
5 of the Cement Makers Award.

And the only area of definitions within the Cement Makers Award that get to or past 150 per cent are those definitions under the heading 'Maintenance Employees'.

COMMISSIONER GOZZI: What page are you looking at there?

MR TARGETT: Well I'm starting, commissioner, on page 27, which shows the  
10 relativities - page 27 of my Gazette copy.

COMMISSIONER GOZZI: Yes, that's -

MR TARGETT: Sorry?

COMMISSIONER GOZZI: - 1 of 1995?

MR TARGETT: Correct, yes. Shows the relativity of 150 per cent is a maintenance  
15 employee grade 13. If I could then, commissioner, take you back to page 25 of that same document. Grade 13 is on page 25 in the second definition down, and I quote:

*Grade 13 - an Engineer Level 1 is an employee who has achieved the competencies from grade 12. An employee at this level performs work above and beyond the skills of an employee at grade 12 and to the level of his or her training. An employee at this level works under limited supervision either individually or in a team environment. An employee at this level is undertaking structured training to achieve competencies which are drawn from the national Metals and Engineering Industry Competency Standards plus site specific competencies to enable them to work at grade 14.*

20

25 What has to then be done, commissioner, is give consideration to what is a grade 13 maintenance employee. It states there: an Engineer Level 1. But what does that really mean? It is appropriate, I believe, to then draw the commission's attention to the Metal and Engineering Industry Award of the Tasmanian Industrial Commission. And the reason I draw the commission to that particular award is that throughout all of the  
30 negotiations on the award restructuring process for the Cement Makers Award - and it can be cited on numerous occasions through the transcript of T.4927 of 1994 - the award restructuring was to be predicated on utilising metal industry standards. That was the agreed position of the parties throughout. And certainly the Metal and Engineering Industry Award do reflect those metal industry standards.

35 And, commissioner, within the Metal and Engineering Industry Award of this commission there is also a relativity of 150 per cent. And in that particular award it refers to wage group level 16. And wage group level 16 covers a leading technical officer, a principal engineering trainer, supervisor, coordinator. And it goes on to state that it is the 150 per cent relativity.

40 And if I could just quote briefly from this particular award of the commission to illustrate the sort of position that attracts a 150 per cent relativity:

*A Leading Technical Officer means an employee who works above and beyond an Engineering Associate Level 2, as defined, at wage group level 15 and has*

*successfully completed fifth year of a part-time diploma or associate diploma, plus additional training or the equivalent level of accredited training.*

5 It is quite clear, commissioner, that at the 150 per cent level in the Metal Industry - in those things established in the metal industry, but we are talking about people moving into the qualified area, the tertiary qualified area, and that is implicit all the way through the Metal and Engineering Industry Award.

10 But it does at that 150 per cent level refer back to wage group level 15. So wage group level 16, 150 per cent, builds on wage group level 15. If I refer to wage group level 15 in the Metal and Engineering Industry Award, which is 145 per cent, lower than the claim by the union, and make a brief quote from that, it says:

*An Engineering Associate Level 2 means an employee who works above and beyond an Engineering Associate at wage group level 14, as defined, and has successfully completed an Associate Diploma or the equivalent level of accredited training and is engaged in -*

15 and so it goes on.

So under the Metal and Engineering Industry Award, and the Metal Industry Standards, at 145 per cent relativity we're talking about a person who has successfully completed an associate diploma.

COMMISSIONER GOZZI: Or undertaking the equivalent level of training.

20 MR TARGETT: Equivalent level of training, yes, that is correct, commissioner.

COMMISSIONER GOZZI: Well, so how do you rate the training required?

25 MR TARGETT: Well specifically in the award - and I will address that, commissioner. It specifically says: Or the equivalent level of accredited training, not just training. It's quite specifically accredited training. And I do intend to address that issue. I'm happy to do that right now to put it into context.

30 COMMISSIONER GOZZI: Oh well. Yes, I mean, the question that exercises my mind about all that - and taking on board what you're saying about relying on the Metal and Engineering Industry Award, I mean, it's a fact of life that in some industries the training is very much in-house training, that there hasn't been a move to achieve accreditation of that training. In most cases that training would be readily accredited. So how - and then establishing the level of competence and expertise that's required in those jobs, how do you equate that to the sorts of standards you're referring to at 145 per cent and 150 per cent, given I think the not disagreed area that technological training and expertise and experience is a necessary component of undertaking the function of central control room operator?

35 MR TARGETT: Commissioner, I'm happy to address that issue quite specifically. And I agree with you that sometimes it is a matter of accredited training or training in-house which hasn't been accredited. Fortunately, we are in a situation to look at that from quite a realistic perspective in relation to the central control room operator.

40 Because the award - Cement Makers Award has at grade 8 a central control room operator who has completed a certificate in cement manufacturing. That certificate in cement manufacturing is, in fact, an accredited course. But in addition to that there is, in fact, a more superior course to the certificate of cement manufacturing - and that course is an advanced certificate, and that course is also an accredited course.

45 And because we have a benchmark, accredited training courses for the employees to

undertake - and I intend to pursue that a little bit further at the moment - we have accredited courses relating specifically to this work, the highest of which is an advanced certificate, we can do the direct comparisons. And the reason I say that is that when we refer back to the metal industry standards and advanced certificate sits at the 130 per cent relativity.

COMMISSIONER GOZZI: All right.

MR TARGETT: The benchmark has been established, the accredited course exists and the relativity set by the metal standards is 130 per cent.

COMMISSIONER GOZZI: What is it at the certificate level?

MR TARGETT: The certificate level isn't as clear because in the metal industry standards that have been established it doesn't actually cite specifically a certificate, but I am advised - and I cannot give you definitive evidence of this because no one is prepared to do so - I'm advised that it equates roughly to a tradesperson. Now I'm sure if the metals union were party to these proceedings they may well disagree with that point because I'm sure that they would not consider that a certificate course of 360 hours training equates to a four year apprenticeship, but I put the proposition that it is in the general area of a tradesperson.

COMMISSIONER GOZZI: All right. So you've got an authoritative figure of 130 based on the metal industry standards?

MR TARGETT: Yes.

COMMISSIONER GOZZI: Is that supported beyond the metal industry standards by way of a training - national training board in terms of competency standards and so on?

MR TARGETT: Commissioner, yes it is. In fact the National Training Board has set the advanced certificates at C.5 of the Metal Industry Award.

COMMISSIONER GOZZI: What's C.5?

MR TARGETT: One hundred and thirty per cent. So yes, it is an authoritative figure based on the standards that have been established elsewhere.

So we have in fact an accredited course called the Cement - the certificate in cement manufacturing, which is a 360 hour course. We then have the advanced certificate which is a further 420 hour course, the end result of which is in our submission an authoritative guide to the end result for the central control room operator being 130%.

Now I stress - and I hasten to stress - that at this point in time in the award that is not reflected - and I will address that in a moment of course. At this point in time that is not reflected.

COMMISSIONER GOZZI: How does the advanced certificate in cement manufacturing course sit in terms of the competencies required with the skill and competency required in the central control room?

MR TARGETT: The advanced course has been specifically designed by the cement industry to suit the cement industry and the central control room operations that obviously vary from some place to place, but to suit in overall terms the specific requirements of the central control room operation.

There are, as with any of these particular certificated course, a set of core competencies. You then move onto some site specific competencies within the modules that have been established within the advanced certificate course.

COMMISSIONER GOZZI: All right.

5 MR TARGETT: So it is a specific course for exactly what we're talking about.

COMMISSIONER GOZZI: So does that mean it should be at 130 per cent?

MR TARGETT: At the end of the day - and I do intend to address that issue.

COMMISSIONER GOZZI: Oh, but I don't want to jump ahead. Is that - is that -

10 MR TARGETT: You are moving a fraction ahead but I do intend to address that in detail.

COMMISSIONER GOZZI: All right. All right. Well I'll wait to ask you some more questions that flow from that when we get to it.

MR TARGETT: I may well be able to answer them all first, commissioner.

COMMISSIONER GOZZI: I'm sure you will.

15 MR TARGETT: Now -

COMMISSIONER GOZZI: So that's an authoritative guide, you say, in respect of the central control room operation?

MR TARGETT: Yes, that is correct.

20 COMMISSIONER GOZZI: So are you going so far as to say then that the central control room operators at Goliath specifically fall within the province of that type of accreditation and certification?

MR TARGETT: Yes I am and even to the extent, commissioner, that Mr Dempsey from Goliath has been a part of the committee that has been establishing the training modules for these particular courses, both the certificate and the advanced certificate.

25 COMMISSIONER GOZZI: All right. Well look, you don't have to answer it now, but let me tell you the question that sort of flows from that. It appears that there may be an area of consent here that at least the rate for the central control room operator ought to be predicated on that 130% level. The question that flows from that, given the state of the art technology at Goliath, which is what I understand it to be, how does that  
30 then sit with what is in those standards for the advanced certificate given that the advanced certificate would apply across the board and, if Goliath is at the leading edge of technology, then how do you recognise that given the generality of that standard all be it at that advanced certificate level?

35 But you're probably going to come to it, but that's obviously what flows from that - that I could conclude, just to put it in a nutshell - I could conclude that there is a view that the 130 per cent level ought to apply and I'm saying as a consequence of what you've said, given the state of the art technology at Goliath, how does that sit with the generality of the advanced certificate standards?

40 In other words, should there be an incremental factor that ought to be built in there recognising that and what should that be?

MR TARGETT: Commissioner, perhaps I'll move on to that issue now and present you with a further exhibit.

COMMISSIONER GOZZI: Exhibit TCCI.7 - oh - yes - seven.

5 MR TARGETT: Commissioner, I'm prepared to jump in feet first as this exhibit will quite clearly show, and actually put to the commission the result that I believe is appropriate taking into account all of the circumstances including, what I would put to you, are significant levels of potential increases to central control room operator wage rates whilst remaining consistent with the metal industry standards and maintaining the internal integrity of the Cement Makers Award. Because let's be very clear,  
10 commissioner, that if the internal integrity of that award is distorted by the central control room operator, I could almost write the application from the other unions to start leap-frogging and quite frankly if I was in their position I would do the same.

COMMISSIONER GOZZI: Well -

15 MR TARGETT: So it is of absolutely fundamental importance to me and the company to ensure that any outcome of these proceedings are justifiable based on the metal industry standards and the integrity of the award itself.

COMMISSIONER GOZZI: All right. I understand what you're saying. Just before you go to this exhibit, have you got an exhibit of the advanced certificate criteria - what's involved in that 400 - in that 420 additional hours?

20 MR TARGETT: At this point in time, commissioner, I'm tossing up whether to pile exhibits or bring some on and put them on the witness box.

COMMISSIONER GOZZI: Yes, you see -

MR TARGETT: So throughout the proceedings today we might just have to see how we go with that.

25 COMMISSIONER GOZZI: Yes. You see, I can see where we're heading. And where I'm heading in my thinking is that there is a strong held view by the witnesses that were presented on behalf of the AWU-FIME members and the union that they are operating at an optimum level.

MR TARGETT: I do intend to address that as well in fact.

30 COMMISSIONER GOZZI: Right. Okay. And your scale on TCCI.7 appears to move up incrementally by virtue of achieving accreditation, I suppose. And the question that I guess that I come to is, would the central control room operators in your view - and we're arguing here of the exhibit - where do they sit in this exhibit 7?

MR TARGETT: Well perhaps if I go through that hopefully all will become clear.

35 COMMISSIONER GOZZI: Mm.

MR TARGETT: Grade 5 is the first item on TCCI.7, which is the relief process attendant at 95 per cent. That particular position currently exists at 95 per cent - so I'm not suggesting any change there.

40 Grade 6, once again, is as the award currently stands for the process attendant, at the 100 per cent level, and I don't intend any change there. But what I would propose with - and the company have agreed to this particular proposal being made - what I would propose is, adding to grade 6 in the definitions, is if a grade 5 employee completes the certificate then they, whilst still doing grade 5 work, would be paid at the grade 6 rate

in recognition of the certificate because the company has accepted that on achieving that certificate their work, whilst still at grade 5, would be greatly enhanced within the operations of Goliath and therefore the completion of that certificate does benefit the company. So that would be an addition to the grade 6 rate.

5 The next item is grade 7. Grade 7 is where the current central control room operators sit - 105 per cent. We would not seek to change that except for making to the definitions, two alterations. Alteration No.1: if a grade 6 operator achieved the certificate in cement manufacturing then they would move to grade 7 in recognition of having the certificate being successfully completed and the benefits that flow to the  
10 company from the employee having completed that certificate. So grade 7 would expand to incorporate a grade 6 employee having completed the certificate.

The other suggested change that we could make to grade 7 is that we would add some words which - and I'm paraphrasing here, commissioner, we would add some words which says that: where the employer deems an employee's experience to be  
15 appropriate or equivalent to that certificate. And that picks up the point you were making, commissioner, about the people with long experience who are excellent at the job but don't have the piece of paper. It may be possible to recognise that person.

COMMISSIONER GOZZI: At what level?

MR TARGETT: Well we could incorporate that at grade 7 and I would also in moving  
20 on to grade 8, so that we could incorporate that at grade 8.

COMMISSIONER GOZZI: Yes, but where would that grade 7 then go to if it was deemed at -

MR TARGETT: To grade 8.

COMMISSIONER GOZZI: Right.

25 MR TARGETT: If was deemed equivalent to the certificate. And I need to add into that, commissioner, that within the certificate of cement manufacturing there is a significant component of recognition of prior learning where there will be an assessment process of people - existing employees - as to their skills and competencies and how they relate to the certificated course and they will be given recognition for  
30 that. So there is an automatic recognition of people's existing skills and competencies towards the certificate but we're prepared to recognise that quite explicitly within the award.

Moving on to grade 8, it quite clearly is the central control room operator having completed the certificate in cement manufacturing. Now obviously if there was an  
35 employee at grade 7 who through the deeming provision I have just proposed, moved to grade 8, we would be quite clearly stating that whilst being prepared to recognise their skills and competencies, they would still be required to complete the certificate. But in advance of completing the certificate they would be moved to the level. But there would still be a requirement to complete the certificate.

40 Grade 8 is currently where the production employees stream in the Cement Makers Award finishes. I, on behalf of the company, am also proposing we go beyond grade 8 and include three new levels which are grade 9, grade 10 and grade 11. If I start with grade 11, the relativity is 130 per cent and it is specifically for a central control room operator who has completed the advanced certificate. That relativity is consistent with  
45 the standards established in the metal industry and accepted by this commission.

We then move back to grade 10 which is 125 per cent and that level would be for a central control room operator who has completed 75 per cent of the modules required

of an advanced certificate and that level and that requirement is consistent with the requirements of the metal industry as is the relativity. And we also incorporate grade 9 at 115 per cent, once again consistent with the metals standards for a central control room operator who has completed 50 per cent of the modules towards an advanced certificate.

I can advise, commissioner, that to undertake the advanced certificate you must have completed the certificate. That is not necessarily Goliath's requirement. That is that of the Training Authority's.

So what I'm proposing is that which is contained within TCCI.7. It maintains the existing position as far as the interim rate is concerned. It creates an opportunity for those current individuals who have extensive experience and knowledge, skills and competency to receive recognition at grade 8 under a deeming provision and I think it's fair to say, commissioner, that at this point in time the company have done an initial assessment and it is probably fair to say that every - all of the existing central control room operators based on experience that they have in their history with the company would move to grade 8 under the deeming provision, because as you've already heard under evidence, for example, with Mr Hampton, he has significant experience and skills, and the company is prepared to recognise that. But it still maintains the integrity of the classification structure both within the award and maintains it with this award related to other awards.

Did that answer all the questions that I was expecting, commissioner, or were there one or two others?

COMMISSIONER GOZZI: Well yes, all except maybe one or two. Now there has been no capacity, as I understand it, for central control room operators to undertake the certificate in cement manufacturing. It hasn't been available in Tasmania for one reason -

MR TARGETT: That is correct at this point in time.

COMMISSIONER GOZZI: So obviously the deeming provisions in that context are going to be very important, because there's nothing to suggest that had that course been available that some of the control room operators at least may not have gone on and finalised the advanced certificate. And the question that arises in my mind - and go back to what I said about the state of the art operation of the Goliath control room, how does that operation differ in the context of what is envisaged at the advanced certificate level? In other words, what competencies haven't the current operators got that they would have if they were doing the course or if they'd completed the course?

So, on the basis that the courses haven't been available in Tasmania and they are still not, and having regard to what you're saying about deeming provisions, why wouldn't somebody like me conclude - having regard for the fact that it is state of the art technology - that, in fact, they ought to be classified at that level?

MR TARGETT: At grade 8?

COMMISSIONER GOZZI: Well, at grade 11.

MR TARGETT: Well I didn't at any stage suggest that the deeming provisions would go that far through the process.

COMMISSIONER GOZZI: Yes, but you see in establishing the -

MR TARGETT: I did say to grade 8.



COMMISSIONER GOZZI: Yes. What's the difference between the competency skills of the operators now compared to what they would have if they completed the 130 per cent course?

5 MR TARGETT: Commissioner, as with any deeming provisions that are - and I mean they are oft used within awards - as with any deeming provisions it becomes a matter of assessment of the individual as opposed to a group of individuals as to their skills and competencies, and that is an assessment that is made by the company at the time in relation to each person.

I mean, all deeming provisions -

10 COMMISSIONER GOZZI: But I could envisage, Mr Targett, if what I have been told is correct, that the operators in question wouldn't be operating at that level of expertise, having regard to the technology that is involved.

MR TARGETT: At the grade 11 level?

COMMISSIONER GOZZI: Yes.

15 MR TARGETT: Oh, commissioner, I have got to say quite clearly that I can envisage that very clearly.

COMMISSIONER GOZZI: All right, well the only impediment is that there is no availability of the course.

MR TARGETT: That is correct.

20 COMMISSIONER GOZZI: So under -

MR TARGETT: But I will also make the point, though, commissioner, that if the course had been available in Tasmania, the advanced course, and they haven't done the certificate course yet, and you are correct, it isn't in the State at this stage, but if they had undertaken the certificate course from day one, which is a two year course  
25 part time at the certificate level, they'd only just be finishing the certificate level and only just starting the advance certificate.

COMMISSIONER GOZZI: But that assumes no recognition of prior learning and that assumes no credits being given for that prior learning and expertise.

MR TARGETT: But we don't know in relation to the individuals whether they will or  
30 won't be, and we cannot make that assumption.

COMMISSIONER GOZZI: Yes, I understand that. The point I am making is presumably in terms of the work performed these operators are operating at the top end of the level, at the top end of the spectrum. Are they, or -

MR TARGETT: Well, I don't accept that.

35 COMMISSIONER GOZZI: Well, okay, if you don't accept that, why wouldn't I assume that that would be the case, having regard to the fact that the Goliath control room is said to be state of the art technology?

MR TARGETT: Commissioner, I think the onus is on the union to demonstrate to you what you are saying. The onus is on the union to demonstrate to you that the  
40 employees are worth more than what they are currently being paid.

The question of whether the employees do or don't comply with the advanced certificate competencies rests fairly and squarely on the shoulders of the union, and they haven't attempted in any way to demonstrate those competencies.

5 In fact, I could argue, and I didn't particularly want to, but I could argue that they haven't demonstrated any competencies at any stage through these proceedings.

I have introduced an element into these proceedings which hasn't been firstly raised by the union -

COMMISSIONER GOZZI: Yes, I recognise that.

MR TARGETT: - in an attempt -

10 COMMISSIONER GOZZI: You've been very helpful.

MR TARGETT: - in an attempt to try and put some semblance of logic into a structure -

COMMISSIONER GOZZI: Yes, I understand that.

15 MR TARGETT: We raise an issue. We have to be very careful that we don't go the next step and put us in the position where we would withdraw the position of the advanced certificate to protect our own backs.

COMMISSIONER GOZZI: Well, the point I am making is that there is nothing to suggest that the operators in question do not hold this skill and the competency of what might be contained in the advanced certificate.

20 MR TARGETT: Well, let me put this suggestion to you in relation to that point. Firstly we've already heard under witness evidence from both Mr Hampton and Mr Parry that until the central control room was brought on line they didn't know anything about it - they didn't even know how to use a computer - and I accept that on face value. They learnt how to use the equipment both of them said within six months.

25 The certificate course takes two years' part time, the advanced course takes two years' part time. There's four years' part time work on those accredited courses to achieve the end result, in addition to working at the job whilst doing a part time course.

30 Both employees hadn't worked in central control rooms prior to them being put in place at Goliath. Neither employees had any knowledge of the operation of the systems and the computers, the overall operation of that new system prior to going into the central control room. Therefore, they have been there for about two years working without any study.

35 That, in itself, demonstrates beyond doubt they cannot be deemed, without some significant evidence, to equate to the competencies as if they had completed an advanced certificate. The best on face value, without a proper assessment, that you could say is they would equate to a certificate level.

Sir, we have a very clear point in time that the people started in the central control room, and they under oath admitted they had no prior knowledge, so the best they could have done is learn over the two year period.

40 COMMISSIONER GOZZI: And that was in August '94.

MR TARGETT: They did work in the central control room on a less expanded scale than currently prior to that, but it wasn't covering as many sections of the plant. But it might be - what is it, 18 months - 18 months roughly since it has been operating.

5 COMMISSIONER GOZZI: And the August date was when it went down to one operator?

MR TARGETT: August, went down to one operator, that is correct, yes. I think also it needs to be clearly stated, commissioner, this move from two operators to one, great moment has been made of that throughout these proceedings.

10 From the very first time that the issue was discussed with the union over a central control room operator before it was even built, and I was part of those discussions from the very beginning, it was clear that the operation was going to be a one person operation.

15 But when the plant was commissioned the company knew that there were going to be an extraordinary set of circumstances through the commissioning phase, and to cope with those extraordinary circumstances, and to give people a bit more rapid rate of learning, they put two people in place. But it was still maintained all the way through the process that it was going to be a one person operation.

20 So when it went back to a one person operation in the central control room it was not this huge quantum leap that everyone indicates, it in fact merely reflected what had been the intention and the stated intention of the company from the very beginning - going back to May 1992.

25 COMMISSIONER GOZZI: All right. Now, just to follow this through a little bit further, given that there is no capacity at the moment to take on board or to study the certificate, or the advanced certificate, and if you say you are prepared to deem the current operators two levels up to the certificate -

MR TARGETT: Yes.

COMMISSIONER GOZZI: - what are you going to do about progression beyond that? I mean, are you going to apply a deeming provision for that?

30 MR TARGETT: I don't see that at this point in time it is necessary, no. But I will say this, the company are currently working on having the certificate of cement manufacturing in place here in Tasmania.

35 They are putting in place, as I understand it, premises for it to be conducted in Railton; they have to have the assessors for the recognition of prior learning put in place here, which is going to be someone on site, but they have to have the necessary information and training; some of the local people will be doing the training, some TAFE people will be doing the training, and it is anticipated that all of that will be completed by the end of this year.

So the commencement of a person participating in that particular course in the current knowledge would be at the commencement of 1996.

40 If a person - let's assume that a person under the recognition of prior learning criteria, and for the sake of the discussion and no more, were credited for 50 per cent of the course, that leaves them one year of work to do to complete the certificate and they can then move straight in and do the advanced certificate because obviously the preparation required to put that in place in Tasmania is undertaken in that period of  
45 time as well.

That means that at the end of 1996 or at the beginning of 1997 they can start studying the advanced certificate. If, when the plant was up and running, which was some 18 months ago, a person had have commenced the certificate of cement manufacturing they wouldn't be finished if they had to do the entire course until the  
5 end of this year. So if you assumed that as correct there's a 12 month delay. I'm proposing the deeming provision to recognise that there has been that delay for the people. But there's also a presumption that they will automatically go on to the advanced certificate, if you also put in those sorts of deeming provisions and impose those.

10 We don't know whether the current people will or won't undertake the advanced certificate course. There is no requirement on them to do so. It is merely a career structure that they can pursue. The company would like them to but it can't impose it, and has never sought to impose that they would undertake the advanced certificate, and they may not. So to deem them to be at that level, if they're not prepared to  
15 undertake the course is, in our view, inappropriate.

COMMISSIONER GOZZI: Is it appropriate to recognise the 18 months in the control room in addition to the plant experience that these people have had, in Mr Hampton's case, 22 years? Is it appropriate to recognise that in accordance with your proposal at  
20 110 per cent? Or should there be some further recognition in the context of that experience, whilst not in the central control room operation?

MR TARGETT: No, I don't believe it is appropriate to go beyond 110 in those circumstances. I get back to the point, let's assume for the moment - and this deeming provision becomes quite relevant because of the unavailability of the certificate course. It does become quite relevant for that purpose.

25 But let's assume that the certificated course was available from day one, and Mr Hampton undertook that course and was credited for whatever recognition of prior learning he would have been entitled, and everybody knows that it wouldn't be 100 per cent. You'd never get 100 per cent recognition. But whatever that level of recognition was, let's assume that he got that. He has now completed his certificated course in 2  
30 months, which means six months ago he finished. That's the delay at this point in time.

We've said in relation to Mr Hampton, because of a deeming provision if it's put into the award, which it isn't at this stage - if it's put into the award, we will recognise that. We will give you that. But to go beyond that level and say that it equates to a  
35 component of the advanced certificate, firstly presupposes he would be undertaking it at this point in time and have achieved something, and we don't know whether that would or wouldn't be the case. And it certainly isn't acceptable for an employee to now stand up and say of course I would have done.

COMMISSIONER GOZZI: No, I mean -

40 MR TARGETT: Now that's meaningless.

COMMISSIONER GOZZI: I mean, it's simply predicated on the fact of knowledge and experience, which Mr Cooper keeps referring to.

MR TARGETT: We don't have a problem. But you see, the knowledge and experience that Mr Hampton has prior to the implementation of the central control room operator was recognised because he was the burner. He was the No. 1. With the new plant we  
45 go to a central control room operation. So he's recognised for his 20 years' experience around Goliath, because he was the burner. When he went to the central control room he had to learn a new job. So his experience made him a terrific burner but it didn't make him a terrific central control room operator; he had to learn the additional work,

and that's what we were talking about earlier, that additional work to move from burner to central control room operator.

5 So his experience doesn't relate to the work of the central control room operator that is new, it operates to the work that he had been doing for the last 20 years and had been recompensed for under the burner classification, as an example.

COMMISSIONER GOZZI: You're not saying it wouldn't make it a damn sight easier if he had 22 years' experience on the burner, to pick up the functions of the central control room operation.

10 MR TARGETT: No, that's not what I said. What I said was he had to learn new functions -

COMMISSIONER GOZZI: Yes.

MR TARGETT: - to move into the central control room operator. And it is the level of difference between the burner and the central control room operation -

COMMISSIONER GOZZI: But even -

15 MR TARGETT: - the new work that becomes the relevant issue.

COMMISSIONER GOZZI: I understand that. But certainly in the central control room, looking at the burning aspect or the kiln operation - I guess that's what we're talking about when we're talking about burner, aren't we?

MR TARGETT: Well we're talking about his entire experience.

20 COMMISSIONER GOZZI: Yes, certainly, but in terms of monitoring that and adjusting that operation, certainly gives him a standup start to have that 22 years' experience as a burner, surely.

MR TARGETT: That's why he got the job as the central control room operator.

25 COMMISSIONER GOZZI: Yes, and I guess it comes back to the context of the certificate or the advanced certificate, how you ought to recognise that, if at all. And you're saying to me it ought to be recognised at the certificate level at this stage.

MR TARGETT: Absolutely. And we have no qualms about that. And, in fact, as I've already stated, the initial assessment we've made, based on the current central control room operators, we believe it will be appropriate to recognise all of them.

30 COMMISSIONER GOZZI: In the documentation, Mr Targett, is there somewhere a relativity of what the burner was to the tradesperson's rate?

MR TARGETT: Well I can take you to that right now.

COMMISSIONER GOZZI: TCCI.8.

35 MR TARGETT: The important column in this particular document, commissioner, is the column headed 'Rate'. The other two columns to the right of that go to the question of shift allowances and overall rates. So if I refer strictly to the rate column, the top part, the burner No. 4 kiln, which was the top rate in the award prior to the changes, was at \$456.00.

40 If you then move down to the bottom half of the page, grade 7 - central control room operator, which is the current classification, \$479.50. In effect, that was a 5.15 per

cent increase over the burner classification. That's putting aside the 4.5 enterprise bargaining and all those sorts of issues. But just purely on award rates it's a 5.15 per cent wage increase.

5 And then if you move to grade 8, the total increase for a grade 8 operator over the burner is 10.18 per cent.

COMMISSIONER GOZZI: Well, you see, you've included the over award in that, haven't you?

MR TARGETT: Yes, I did, because that was the interim rate that was struck.

COMMISSIONER GOZZI: You're asking me to - TCCI.3 is \$468.20.

10 MR TARGETT: Yes.

COMMISSIONER GOZZI: So you're asking me to build anything up, if I do, on that rate, aren't you?

15 MR TARGETT: No, what I'm doing is giving you a comparison of what the interim rate was that was established for a central control room operator and the burner rate, nothing more than that. When we agreed on an interim rate -

COMMISSIONER GOZZI: Yes, but that interim rate, the \$479.50, includes an over award component of \$11.30.

20 MR TARGETT: The interim rate was not an award rate. The interim rate was established in May 1992 and that was the figure that was established as the interim rate.

COMMISSIONER GOZZI: So that -

MR TARGETT: The award rate that is now in place was put in place last year, 1994.

COMMISSIONER GOZZI: Yes, I'm sorry to appear thick on this, but are you saying the \$479.50 for the interim rate was a flat rate?

25 MR TARGETT: That was just it, full stop. It was not an award rate. It was an agreed interim rate reached between the company and the union for the grades 5, 6, 7 and 8 because there was no award classification for them and it was new work. So it was the interim rate.

COMMISSIONER GOZZI: Well go back to TCCI.3.

30 MR TARGETT: Yes.

COMMISSIONER GOZZI: Well how do I read TCCI.3 with TCCI.8?

MR TARGETT: Well I'll move on to that now.

COMMISSIONER GOZZI: Yes.

MR TARGETT: TCCI.8 is the establishment of the interim rate.

35 COMMISSIONER GOZZI: Right.

MR TARGETT: Nothing more than that. Two years later we moved the award, restructured the award, in 1994. In restructuring the award we had to put in place the

central control room operator relativities in accordance with the scales that had been agreed upon as being appropriate via the metal industry standards. And the closest level to the agreed interim rate was the 105 per cent rate at grade 7.

COMMISSIONER GOZZI: Right.

- 5 MR TARGETT: But obviously the 105 per cent rate did not equate exactly to the interim rate that had been established, so the variance we put in as an over award payment. And we guaranteed to those people at grade 7, who were currently receiving the over award payment, they would not lose it, for the current people.

- 10 COMMISSIONER GOZZI: All right. Well the question then is, in your proposal you are suggesting the 468.20 be adjusted by another 5 per cent to make it a 110 per cent. And you would absorb the \$11.30.

MR TARGETT: No, I don't think that's what I'm proposing at all.

COMMISSIONER GOZZI: Well I'm losing something there because TCCI.7 proposes the 110 per cent.

- 15 MR TARGETT: For a central control room operator with a certificate.

COMMISSIONER GOZZI: Right. Now if I adopted that 110 per cent, wouldn't the net effect be 110 per cent based on TCCI.3, which would adjust the 468.20? I mean, that's what you're asking me to do.

MR TARGETT: Well the 110 per cent would equate to TCCI.4.

- 20 COMMISSIONER GOZZI: Well yes, okay.

MR TARGETT: Which has an award rate -

COMMISSIONER GOZZI: Yes.

MR TARGETT: - of \$490.50.

COMMISSIONER GOZZI: Yes.

- 25 MR TARGETT: Okay. That's the effect of it.

COMMISSIONER GOZZI: But that's 110 per cent of the tradesperson's rate.

MR TARGETT: That is correct.

COMMISSIONER GOZZI: Exactly.

MR TARGETT: Yes.

- 30 COMMISSIONER GOZZI: Right. Now in doing that, what happens to the \$11.30 which was part of the interim rate in May 1992?

- 35 MR TARGETT: For all existing employees that has been guaranteed to be retained. For anyone who is currently a grade 6 and relieves at grade 7, that has guaranteed to be retained. Let's look at a brand new employee that comes in from somewhere else, they would go in at the award rate.

COMMISSIONER GOZZI: At \$490.50.

MR TARGETT: That is correct. We have guaranteed that the existing grade 7 people will keep that over award payment and any grade 6 person who relieves at grade 7 will not lose it if they went up to grade 7 either. And we've actually put that out in writing under the hand of Mr Dempsey.

5 COMMISSIONER GOZZI: Right. So TCCI.8 established the interim rate at \$479.50.

MR TARGETT: That is correct, for the grade 7.

COMMISSIONER GOZZI: Right. Which is your submission should then go to \$490.50.

10 MR TARGETT: No. Why would it? The award rate is already there. And the award rate is different to the company rate.

COMMISSIONER GOZZI: Mm.

MR TARGETT: So if the company is paying to specified people.

COMMISSIONER GOZZI: Well you're suggesting that the grade 8 or the production employee grade 8, with the certificate, goes to \$490.50, which is 110 per cent.

15 MR TARGETT: That is correct plus, of course, they get their 4.5 per cent and so on.

COMMISSIONER GOZZI: Yes, but -

MR TARGETT: It is the award rate they go to \$490.50, yes, that is correct.

20 COMMISSIONER GOZZI: Yes. So current employees in the award you would classify, on the basis of what you've said, with a deeming provision at that level - with all the other add ons as well for existing employees.

MR TARGETT: Yes, that is correct.

COMMISSIONER GOZZI: Right. Yes, okay.

MR TARGETT: But I must say, we haven't sat down -

25 COMMISSIONER GOZZI: Which is not a 5 per cent increase because they are currently in the context of their -

MR TARGETT: That is correct.

COMMISSIONER GOZZI: -award rate -

MR TARGETT: That is correct.

COMMISSIONER GOZZI: -are getting \$479.50, so it's less than 5 per cent.

30 MR TARGETT: Two and a half.

COMMISSIONER GOZZI: Right, thanks.

MR TARGETT: Close enough to.

COMMISSIONER GOZZI: Well in the long way we've got to what I wanted to hear.



MR TARGETT: I make no bones about that, commissioner, because I even put that in writing to the union.

COMMISSIONER GOZZI: Okay, for existing employees that's what we're talking about.

5 MR TARGETT: Yes, that is correct. Okay, at some stage, commissioner - I mean, I've got further submissions to make obviously -

COMMISSIONER GOZZI: Sure.

10 MR TARGETT: - but I would like to get some sort of an indication when you intend to break for lunch or whatever because it would be useful from my perspective, in making submissions, if we broke shortly. And I do intend to try and wrap this up today and then I can look at those couple of issues about documentation or witnesses or whatever and proceed from there.

COMMISSIONER GOZZI: I must say, I wouldn't mind hearing from the person you nominated as a witness, if that was possible.

15 MR TARGETT: I haven't nominated anyone as yet. I said I may bring in a witness.

COMMISSIONER GOZZI: A Mr Dempsey, I think you mentioned.

MR TARGETT: I said I may bring in as a witness, yes.

COMMISSIONER GOZZI: Well I'm just saying, I wouldn't mind hearing from Mr Dempsey.

20 MR TARGETT: In what context, commissioner?

25 COMMISSIONER GOZZI: Well in the context of the deeming provisions and the work in the control room and how that might stack up vis-a-vis the skills and responsibilities inherent in the advanced certificate, so I can get some feel of how the work and responsibilities in the control room currently stack up with what may be achieved if people went to an advanced certificate, which is not currently available.

MR TARGETT: Do you also intend to assess those competencies against the certificate?

30 COMMISSIONER GOZZI: Yes, most definitely. Yes. I think I should get a feel for the whole thing. I mean, you're proposing to deem these employees, having regard to what they've undertaken so far at, at 110 per cent which I'd like to get a feel for. Because I keep saying, from an inspection -

MR TARGETT: That concerns me a bit, commissioner, actually.

COMMISSIONER GOZZI: Well that's what you were saying.

MR TARGETT: No - well, see what I put -

35 COMMISSIONER GOZZI: I think -

MR TARGETT: Yes, I have. I mean, I think - with all due respect I think that actually goes one step too far. What I've said is that I believe it may be appropriate to vary the award to insert a deeming provision -

COMMISSIONER GOZZI: Yes, all right.

MR TARGETT: - and then, as with all deeming provisions the employer has to make an assessment as to whether they do or don't deem that person equivalent.

COMMISSIONER GOZZI: All right, but I need to make an assessment.

5 MR TARGETT: If you make the decision that you deem them equivalent, that goes beyond any of the deeming provisions in the award or any award.

10 COMMISSIONER GOZZI: Whether you want to call it deeming or whatever, I want to establish a rate and I want to have before me information to allow me to do that in the best possible way. Now, you know, if I conclude that the experience and responsibility for the control room operators are at a certain level, then whether I deem that or not really is neither here nor there.

MR TARGETT: Well with all due respect, I think it does become quite irrelevant based on maintaining the principles of this commission, as far as the integrity of the classification structure is concerned and the relativities.

15 COMMISSIONER GOZZI: I understand what you're saying about that, but I'm asked by the parties to -

MR TARGETT: By Mr Cooper.

COMMISSIONER GOZZI: Well with your agreement, to establish the correct rate. You're saying that the appropriate rate is the one in the award currently.

MR TARGETT: That is correct.

20 COMMISSIONER GOZZI: And you're going to another step and saying, okay, there ought to be a deeming provision which allows you, the employer, to make an assessment in respect of the skills of the current employees against the certificate. And if they're deemed to be at that level they might go to 110 per cent.

MR TARGETT: Yes.

25 COMMISSIONER GOZZI: And I'm saying, having regard to the work that I've seen in the control room and having regard to all the things that have been said thus far, I'd like to be able to benchmark the skills and responsibilities of the control room operators, as they currently are, against the skills and responsibilities of an advanced certificate and a certificate, through a witness.

30 MR TARGETT: Yes -

COMMISSIONER GOZZI: And that would allow me to benchmark what you're saying and also benchmark some of the other things that we've been discussing in these proceedings.

35 MR TARGETT: I accept what you're saying, commissioner, but are you then benchmarking an individual. The current central control room operator that you saw, are you benchmarking what work is required of a central control room operator?

40 COMMISSIONER GOZZI: What work is required in the central control room. I'm not about assessing individual duties and responsibilities and skills. I'm simply saying - I'm not about setting individual classifications. I'm looking at the work that's required in the central control room.

MR TARGETT: Yes.

COMMISSIONER GOZZI: And I want to know how that - the functions and responsibilities in that control room might stack up against what might be comprehended in an advanced certificate course or a certificate course. And I think that is a legitimate way to go about this exercise, to establish some fairly fundamental benchmarks which, in my view, probably could have been done - you know - 18 months ago.

MR TARGETT: That may be possible, commissioner. I'm not going to get into that one.

COMMISSIONER GOZZI: All right, well that's fair enough.

10 MR TARGETT: Well I get back to the point, commissioner. Do you intend to adjourn? I'm happy to give consideration to your - to the comments that you've made.

COMMISSIONER GOZZI: Yes, well look, I'm - obviously it doesn't matter what time we adjourn. So I'm in your hands.

MR TARGETT: Well I'd ask that the adjournment for luncheon be at this time.

15 COMMISSIONER GOZZI: All right, well that's fine.

MR TARGETT: And I'll proceed after lunch.

COMMISSIONER GOZZI: All right, well we'll adjourn to - what - 1.15 - 1.15?

MR TARGETT: Yes, okay.

COMMISSIONER GOZZI: Is that enough time - or 1.30?

20 MR TARGETT: 1.30.

COMMISSIONER GOZZI: All right, 1.30, thank you.

#### **LUNCHEON ADJOURNMENT**

25 COMMISSIONER GOZZI: Thank you. Now before we go back on the record - okay well, following our discussions off record, these proceedings will be adjourned for discussions on site tomorrow morning at 7 o'clock. The proceedings are adjourned to then, to 7 o'clock tomorrow morning. Thank you.

#### **HEARING ADJOURNED**