Introduction

1. The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union ("the CEPU") is the principal union for electrical, communications and electronic trades employees. The union represents over 60,000 electrical and electronic trades employees across all sectors of industry.

2. For present purposes, the term "electrotechnology trades employees" is used to refer to those employees for whom the CEPU is the principal union, with the term referring to employees who:

   a. hold a trade certificate or tradesperson's rights certificate, in an electrical trade; or
   b. hold an AQF Certificate Level 3 in Electrotechnology in one of the following:
      i. systems electrician; or
      ii. assembly and servicing; or
   c. have successfully completed an appropriate trade course or who have otherwise reached an equivalent standard of skills and knowledge in communications/electronics; or
d. hold an AQF Certificate Level 3 in Electrotechnology in one of the following:
   i. building services;
   ii. communications;
   iii. computer systems;
   iv. data communications;
   v. entertainment and servicing;
   vi. scanning; or

e. have successfully completed an appropriate instrumentation trade course; or an 
   AQF Certificate Level 3 in Electrotechnology Instrumentation; or

f. hold an appropriate electrical/refrigeration/air-conditioning trade certificate; or 
   an AQF Certificate Level 3 in Electrotechnology Refrigeration and Air-
   conditioning; or

g. have successfully completed an appropriate trade course in linework or cable 
   jointing, or an AQF Certificate Level 3 in Transmission Powerline or ESI 
   Distribution Powerline; or have otherwise reached an equivalent standard of 
   skills and knowledge.

3. The Commission will note that the foregoing definition is extracted from the Electrical, 
   Electronic and Communications Contracting Award 2010 (MA000025).

4. The CEPU and its state counterpart unions have an interest in, or are parties bound by, a 
   large number of federal and state industrial instruments covering electrotechnology 
   trades employees and other workers in a wide range of industries.

5. It is the broad thrust of these submissions that the Commission has already made 
   appropriate provisions for the award regulation of electrotechnology trades employees 
   via the Manufacturing and Associated Industries and Occupations Award 2010 
   (MA000010) and the Electrical, Electronic and Communications Contracting Award 
   2010 (MA000025).

6. It is the CEPU’s position that, rather than recreating the relevant career paths, 
   classification structures, allowance schemes and the like for the Stage 4 industries, it is 
   both more coherent and more appropriate to simply expressly exclude 
   electrotechnology trades employees from the coverage of these proposed awards.

7. The CEPU submits as follows:

   The Electrotechnology Trades

8. The electrotechnology trades form a distinct area of industry, involving distinct work 
   practices and requiring high level of training.

9. As was more fulsomely argued by the CEPU and NECA at Stage 2 of the Award 
   Modernisation process, the electrotechnology trades require bespoke industrial 
   regulation. Whilst it is not necessary to repeat those submissions in full, it is relevant 
   for the Commission to consider two aspects of these earlier submissions in particular, 
   namely:
   a. the nature of electrical work; and
   b. the training requirements.

1 See the submissions of the National Electrical & Communications Association and Communications Electrical and Plumbing Union 
on 31 October 2008 in the Building, metal and civil construction industries, Electrical contracting industry, Painting industry, 
Plumbing industries.
Nature of electrical work

10. As the CEPU has earlier submitted, the electrotechnology trades operate across virtually all industries, providing a broad range of "electrotechnology" services.

11. Electrical and communications installations are a feature of virtually every building, structure and business – across every industry – throughout every state and territory in the country. They are an essential element of modern commercial and domestic infrastructure, upon which every household, government, industry and business is heavily reliant.

12. The past three decades has seen an overwhelming shift toward the outsourcing of electrotechnology work. Work that was once done "in-house" by directly-employed electrical and communications employees across various industries is now routinely carried out by specialist contractors who are not industry-specific.

13. Similarly, advances in technology have brought changes in the nature of the work performed by industry participants. Increasingly, basic electrical and communications systems have become integrated with more complex systems, such as audio visual, security, computer and fire systems. These advances, coupled with other factors such as the deregulation of telecommunications, have brought about fundamental changes in the nature of the work – where, once, an electrical contractor might have undertaken only "pure" electrical work, they now practice a broader range of skills in higher-technology environments.

14. As consequence, the industry's workforce has concentrated into specialist providers. Some 80% of electrical license holders in Australia – approximately 144,000 people – are employed in electrical and communications contracting businesses alone2.

15. A further 5% are employed within the electrical power industry.

16. The remaining 15% are employed either "in-house" (for example, for manufacturing or mining businesses) or no longer perform electrical or communications work (despite still holding their licenses).

17. In addition to the electrical work common associated with the electrotechnology trades, they are also responsible for voice and data communications cabling works, employing large numbers of cablers registered under Australian Communications and Media Authority-approved registration schemes.

18. We submit that the electrotechnology trades perform distinct and highly specialised work, and that the industrial regulation should be tailored to match these needs.

Training

19. The electrotechnology trades require specialised and detailed training.

20. By way of example, the Federal Government has established the ElectroComms and Energy Utilities Industry Skills Council Ltd ("EE-Oz") as the industry skills council. EE-Oz is responsible for developing training packages and other training arrangements for the electrical and communications contracting industry. It characterises the industry as having:

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2 This is an approximation based on NECA membership and other data.
"...a relatively high skills profile compared with the overall Australian labour force. Almost a quarter of the industry’s work force is in the ‘trades’ category, compared with around 13% across the total Australian labour force..."

and

"...an above average proportion of workers at the ‘Associate Professional’ level (typically persons with Diplomas, Advanced Diplomas, or an equivalent) and a below average proportion of ‘low-skilled’ workers. As a result, approximately 40% of workers in the industries possess a VET level qualification, compared with around 22% of the total labour force."^{3}

21. Qualifications and training packages developed by EE-Oz – there are 80 – are used to train approximately 97% of all apprentice-level employees in all industries. That training is administered by TAFE, and amongst others, various group training companies and skills centres established by the CEPU and NECA in all states and the ACT. NECA and the CEPU have, particularly in recent years, invested substantial amounts of members' capital towards the establishment of those operations (see Attachment A, which provides an overview of existing electro group training companies).

22. The qualifications and training packages were deliberately developed by EE-Oz to correspond to the classification structure provided for within the existing federal industry award. As noted in the joint CEPU and NECA submissions in Stage 2 of the Award Modernisation process, EE-Oz has stated that the existing federal award:

"...has been, and continues to be, the benchmark for development of the Electrotechnology ... Training Packages. It allows rationalisation of the Electrotechnology ... trades into nationally consistent, flexible training outcomes which provide for current and emerging needs of the industries' workers. **It is essential that the Award be maintained to provide a stable industrial instrument for individuals working at all levels in all sectors of these industries. Without this, the ongoing implementation of the National Training Reform Agenda is not possible.**"  

(emphasis added)

23. Moving electrotechnology trades classifications from an industry-specific framework to an industry-by-industry framework will jeopardise the ongoing application of existing training packages. This, in turn, may necessitate the development of new packages – particularly if classification structures are not uniform from industry to industry. Inevitably, any reengineering of those training packages will require additional investment from relevant industry participants, most notably NECA and the CEPU; with costs that will ultimately be borne by members. Uncertainty surrounding the re-engineering of those packages – or insufficient investment in them – may also have an adverse impact upon apprenticeship enrolments.

**CEPU Position in Relation to the Making of Stage 4 Modern Awards**

24. With the exception of the salt and labour hire service industries, the CEPU does not object to the making of modern awards for the Stage 4 industries.

25. These awards should be comprehensive and provide an appropriate safety net for employees where no certified agreement exists, or where, for whatever reason, a certified agreement ceases to operate.

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26. These awards should maintain existing conditions of employment, particularly in regard to the classification structure and allowances.

27. However, so as not to cause industrial disharmony or otherwise upset the status quo ante, these awards should contain the exclusions detailed below.

**The Electrical Contracting Modern Award**

28. The Electrical Contracting Industry supplies electrical services to virtually all other industries. In light of this, the Commission has created the Electrical, Electronic and Communications Contracting Award 2010 (MA000025) (“the Electrical Contracting Modern Award”).

29. As outlined above, the electrotechnology trades are a unique and distinct aspect of industry. To date, the Electrical Contracting Modern Award represents the most appropriate tailoring of a modern award to match the needs of both employees and employers in this industry.

30. The coverage of the Electrical Contracting Modern Award is obviously restricted to contractors, with clause 4 stating relevantly for present purposes:

   “This industry award covers employers throughout Australia in the industry of electrical services provided by electrical, electronics and communications contractors and their employees in the classifications within Schedule A—Classification Definitions to the exclusion of any other modern award.”

31. Given that the Electrical Contracting Modern Award is:
   
   a. specifically tailored to meet the needs of industry participants; and
   b. the coverage of the Award is limited specifically to contractors,

   it appears sensible and proper that this Award should apply to the exclusion of all other modern awards (consistent with clause 4.1 of the Award).

32. Accordingly, the coverage clauses for Stage 4 modern awards should defer in favour of the Electrical Contracting Modern Award.

**The Manufacturing Modern Award**

33. The CEPU has formerly made general submissions with respect to maintenance trades being included in awards in Stage 1 of the award modernisation process. In Stage 1, the Commission created the Manufacturing and Associated Industries and Occupations Award 2010 (MA000010) (“the Manufacturing Modern Award”).

34. The CEPU does not support maintenance trades classifications (to the extent that term includes electrical/electronic maintenance workers) in industry awards which have not previously included such classifications.

35. In the CEPU’s submission, modern awards for the Stage 4 industries should not include maintenance trades classifications. The Manufacturing Modern Award provides detailed classifications for maintenance trades which, while being less appropriate for electrotechnology trades than the classification in the Electrical Contracting Modern...
Award, are supported by flexible training packages specifically developed for the maintenance trades.

36. The industries the subject of Stage 4 employ only a few isolated maintenance trades. As such, any resulting modern awards are unlikely to countenance the complex links between the classification structure and training system that the Manufacturing 2010 award provides.

37. This relationship is critical for the industrial relations system to drive changes to the training of maintenance trades for increased flexibility and productivity as the Metals award did for the mechanical and fabrication maintenance trades under the Structural Efficiency exercise and the Training Reform Agenda in the 1990s.

38. Subsection 576B(2)(a) of the Act is strikingly similar to the objectives of the Structural Efficiency (award modernisation) principles. This is no accident but reflects the Parliament’s intent on continuing that process.

39. There is no sound reason for the Commission to stop the application of the Manufacturing Modern Award from covering maintenance trades where those employees are directly employed (as distinct from being employed by a contractor to perform a maintenance service by contract). The objective to reduce the number of awards for employers in a particular industry does not overrule the benefits of a maintenance award applying across industries to ensure that maintenance trades are provided an appropriate classification structure and appropriate training arrangements underpinning that structure, and appropriate terms of employment which are often peculiar to them.

40. Accordingly, the coverage clauses for the Stage 4 modern awards should each defer in favour of the Manufacturing Modern Award in so far as it pertains to electrotechnology trades employees.

**The Salt Industry**

41. To date, the CEPU remains unpersuaded that there exists sufficient need for the making of a modern award for the salt industry. Prima facie, the CEPU can see nothing peculiar to the industry that would render it inappropriate for another modern award, such as the Mining Industry Award (MA000011), to cover the field.

42. Accordingly, the CEPU reserves its position in relation to the making of a modern award for the salt industry.

43. The CEPU has had scant opportunity to review the draft presented by The Australian Workers’ Union ("the AWU"). However, even on a cursory reading it is plain that significant problems exist which make it impossible for the CEPU to support it at this stage.

44. It is noted that the majority of the awards which form the current industrial structure to the industry list the AWU as the sole union party. Accordingly, the classification structures in these awards do not adequately countenance the role of tradespeople and skilled labour.
45. The AWU draft appears to rely heavily upon the “Salt Industry (Victoria) Award 2001” and the Queensland “Salt Industry Award – State 2002”. Relevantly, both of these awards provide for electrotechnology tradespeople to be classified at a sub-trade level.

46. This classification is carried forward in to the AWU draft at Schedule A to the draft, with the definition for a Salt Industry employee Grade 4 stating relevantly:

“(a) An employee requiring minimal supervision who is capable of the operation of all the equipment and machinery and able to make decisions as to the quality of a product employees at this level:

(i) have been previously trained to level of a Level 3 employee;
(ii) are capable of designation of flow paths;
(iii) have an understanding of chemical additives and higher quality food grades;
(iv) are capable of automatic or manual control of switching or bypassing equipment by electric, electronic or manual control;
(v) have good communication and interpersonal skills;
(vi) exercise basic keyboard skills;
(vii) may be required to hold special vehicle licenses;
(viii) have an understanding of the operating principles, of plant equipment, varying product grades and their specifications.”

(emphasis added)

47. The references to clause 4(a)(iv) to “switching” and “bypassing” are references to work which, pursuant to relevant electrical and workplace health and safety standards in all states and territories, can only be performed by an electrical worker.

48. A Salt Industry employee Grade 4 is specified at clause 13.1 to be 97.5% of the “base trade” rate. It is noted that the use of the term “base trade” in clause 13.1 is the only mention of the term “trade” within the AWU draft.

49. Given that the classification structure of the AWU draft would see a qualified electrician placed at the same level as an employee required to “exercise basic keyboard skills”, the CEPU cannot support the AWU draft as it stands.

50. As noted above, in CEPU is not currently in a position to comment as to the appropriateness of the making of a modern award for the salt industry. However, should the Commission choose to make such an award, it is submitted that the classification structure must take in to consideration the legitimate needs of the maintenance trades. To this end, the CEPU notes that either:

a. such an award should expressly exclude maintenance trades in favour of the Manufacturing Award; or
b. that the provisions found in the relevant enterprise awards, particularly the the “Cargill Australia Limited - Salt Production and Processing Award 1988”, be relied upon as a basis for future discussions among the parties.

The Labour Hire Services Industry
51. It is the position of the CEPU that electrotechnology tradespeople engaged as labour hire are already covered by the Electrical Contracting Award.

52. In this, the CEPU notes the decision of Senior Deputy President Williams in CEPU v IES Australia Pty Ltd and TAD Industrial Pty Ltd concerning the coverage of the “National

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4 Clause SW4 of Schedule B to the Salt Industry (Victoria) Award 2001 and sub clause 5.1.4(a)(iv) of the Queensland Salt Industry Award – State 2002.
Electrical, Electronic and Communications Contracting Industry Award 1998”. Relevantly, his honour held at paragraph 20 onwards:

“[20] The CEPU contended that, for the purposes of this application, the relevant “kind of employees” are employees employed in the electrical contracting industry in Victoria, i.e. employees who perform electrical work in Victoria and are employed by entities that contract for the provision of electrical services. I agree. Both IES and TAD are entities that contract with a third party to provide electrical services. The employees in question are employed by IES and TAD. They are assigned by their respective employers to perform electrical services for a third party.

[21] The fact that IES and TAD may also be described as suppliers of labour only or as suppliers of labour for the performance of services in addition to electrical services does not denigrate from the fact that the relevant labour supplied is for the provision of electrical services. Each of them has contracted with ASC to provide labour for a specific purpose, namely the performance of electrical work. Whether or not that work is performed at the direction of and under the supervision of the employer itself or ASC is irrelevant. Whether or not the necessary tools and equipment are supplied by the employer itself or ASC is irrelevant. Any agreement by an entity to provide electrical services does not necessarily require the direct supervision of the employees by that entity or the supply of tools and equipment by that entity. Nor does it require the provision of what may be described as a “complete service”. It may be limited to the provision of suitably qualified labour, i.e. the provision of employees who have the necessary qualifications to perform the work required by the third party. In this case, both IES and TAD employ suitably qualified persons and provide such persons to ASC for the performance of electrical work as and when required by ASC. Each is an entity which contracts to provide electrical services. Each employees the relevant employees for the purpose of providing those services. Each is involved in the electrical contracting industry.”

53. His honour continued, noting further:

“[22] The falseness of any contention to the contrary is simply demonstrated when consideration is given to the situation faced by ordinary householders on a regular basis. The repair of a faulty security light may require the services of a suitably qualified person either employed by an electrical contractor or self employed. It may not require the supply of any equipment or the use of tools (if any) other than those supplied by the householder. It is, however, the repair of an electrical item and the service provided is the provision of an electrical service. The provider of the service, either in person or through an employee, is contracting with the householder to provide an electrical service and is no less engaged in the electrical contracting industry than an entity such as the relevant employers in this matter.”

54. Put most simply, Williams SDP found that “If it is an entity which contracts to provide electrical services, it may properly be described as being an electrical contractor”.

55. On the basis of this reasoning, Williams SDP held that providers of labour hire which involved electrical services were subject to the “National Electrical, Electronic and Communications Contracting Industry Award 1998”.

5 PR939045 8 October 2003
56. Accordingly, the CEPU seeks to preserve the status quo ante. Should the Commission be minded to amend existing modern awards in accordance with the submissions of ACTU, the CEPU would seek that such amendment expressly reference the role of the Electrical Contracting Award. In the alternate, should the Commission make a stand-alone labour hire modern award, a position the CEPU does not support, the union would seek a similar exclusion.

57. The CEPU submits that, given:
   a. the plain effect of the Electrical Contracting Award;
   b. the historical application of the National Electrical, Electronic and Communications Contracting Industry Award 1998; and
   c. the clear word of Williams SDP,
the exclusions sought do no more than restate and clarify the current position.

**Conclusion**

58. The Commission will note that the plain effect of these submissions sought is to substantially simplify and streamline the conditions of employment for electrotechnology trades employees.

59. Given the volume of work which both the Commission and the relevant industry participants committed in drafting the Electrical Contracting Award and the Manufacturing Award, it appears both appropriate for the above submissions to be adopted.