

7 April 2011

Senator Mitch Fifield  
Chair, Finance and Public Administration Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Senator Fifield

**Inquiry into superannuation claims of former and current Commonwealth Public Service employees**

ACTEW Corporation Limited (ACTEW) welcomes the opportunity to make a submission to the Committee's inquiry in relation to claims by former and current employees of the Commonwealth and Commonwealth statutory authorities in relation to their superannuation affairs. The Committee's Terms of Reference refer specifically to claims made by current and former employees of the ACT Electricity Authority (ACTEA), a former Commonwealth statutory authority.

The following background information may assist and inform the Committee about the relationship between ACTEA and ACTEW. ACTEA was established as a Commonwealth authority pursuant to section 5 of the *Australian Capital Territory Electricity Supply Act 1962 (Cth)* from 1 July 1963. The primary function of ACTEA was to supply electricity to the Australian Capital Territory. ACTEA remained a Commonwealth authority until 1 July 1988, when a new Commonwealth authority known as the Australian Capital Territory Electricity and Water Authority (ACTEWA) was established pursuant to section 4 of the *Electricity and Water Ordinance 1988 (ACT)*. Self government was conferred on the ACT in 1988. In 1995 the ACT Government corporatised ACTEWA and the functions of the former Authority have been undertaken by ACTEW, which is a public unlisted company owned by the ACT Government, since then.

As a consequence of the historical relationship between ACTEA, ACTEWA and ACTEW, legal proceedings against ACTEW and the Commonwealth have commenced in the ACT Supreme Court by former employees of ACTEA who allege that they were provided with incorrect information or advice regarding their eligibility to join the then-applicable Commonwealth superannuation scheme. This is a situation which ACTEW had no role or involvement in but has inherited through a chain of historical events relating to its structure. The precise nature of the information or advice alleged to have been provided to employees varies in each case and ACTEW is therefore carefully considering each case on its merits.

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It is clear that if a large number of superannuation claims proceed against ACTEW and/or the Commonwealth in the ACT Supreme Court or any other jurisdiction, significant legal costs will be incurred by all parties involved. The claims involving the former ACTEA are a subset of the total number of similar claims being made against the various emanations of the Commonwealth.

ACTEW considers that the Commonwealth has the primary interest in exploring the possibility of utilising more efficient and cost effective methods of resolving these claims in a manner that results in just and fair outcomes for all parties in accordance with the merits of each claim consistent with the model litigant obligations set out in the Legal Services Direction 2005. In these circumstances the Committee may consider making recommendations regarding more efficient methods for resolving the claims, including alternative dispute resolution or referral to a specialist tribunal.

I would be pleased to provide any additional information which the Committee considers would assist it in its consideration of these matters.

Yours sincerely

Mark Sullivan  
Managing Director