

FAIR WORK COMMISSION

Fair Work Act 2010

s.156 - 4 Yearly Review of Modern Awards

AM 2014/265.

Electrical, Electronic and Communications Contracting Award 2010
MA000025

**ELECTRICAL, ELECTRONIC AND
COMMUNICATIONS CONTRACTING AWARD
2016**

Short Submissions on Substantive Claims

**NATIONAL ELECTRICAL & COMMUNICATIONS
ASSOCIATION (NECA)**

Introduction

1. In a Statement and Directions issued by Justice Ross on 26 August 2016, parties to Group 4 Awards were requested to file a short submission confirming the substantive claims being pursued.
2. Paragraph [5] of the Statement and Directions goes on to say “This is not expected to be a full submission, but should include the following:
 - i. the nature of the change sought;
 - ii. a draft variation determination;
 - iii. the type of case to be run (merits or evidentiary based); and
 - iv. if the case is evidence based, how many witnesses will be called?”
3. Paragraph [6] of the Statement and Directions says “This process will give the parties the opportunity to reframe existing claims or to raise additional substantive claims. Parties are also requested to advise the Commission if they are no longer pursuing any of their earlier claims. The filing date for this submission is on or before 4pm on Friday 30 September 2016.”
4. In accordance with directions issued by the Commission, NECA filed Outlines of Submissions on 2 March and 12 November 2015 proposing a number of changes to the Award.

The nature of the changes sought

5. Clause 12.4 Apprentice Travel time (additional substantive claim)

5.1 Clause 12.4 should be amended to make it clear that time spent by an apprentice in attending repeat training or re-assessment because of the apprentice's failure to complete the apprenticeship or stage of the apprenticeship is not to be regarded as time worked.

6. Clause 17.5(d)(iii) Fares Allowance

6.1 Clause 17.5(d)(iii) should be amended to say that the allowance at 17.5(d)(i) is not paid where the employer offers to provide transport free of charge whether from the employee's home or the employer's registered office.

7. Clause 24.8 Rostered Day Off

7.1 A new paragraph (e) should be added to subclause 24.8 to allow an employee with the consent of the employer to accumulate up to five rostered days off for the purpose of creating a bank to be drawn on by the employee or paid out.

7.2 The current paragraph (e) should be re-numbered as (f)

8. Clause 24.13

8.1 Clause 24.13(b) should be deleted

9. Clause 25.4(a) Inclement Weather

9.1 Clause 25.4 (a) should be amended to place a cap on the number of ordinary hours lost due to inclement weather for which an employee should be paid.

10 Clause 27.4 Overtime and Rest Breaks

10.1 Clause 27.4 should be amended to make it clear that overtime worked on a call back in which the actual time worked is less than three hours is not to be regarded as overtime for the purposes of calculating the ten hour break.

11 Clause 28.4 Annual Leave Loading

11.1 This claim is not pursued.

Draft Variation Determination

12 See Attached

Type of Case

13 NECA intends to run both merit and evidence based arguments.

Witnesses

14 It is envisaged that NECA will call between 1 and 4 witnesses.

NECA

30 September 2016

DRAFT VARIATION DETERMINATION

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(AM 2014/ 266)

Electrical, Electronic and Communications Contracting Award 2010

[MA 000025]

Further to the decision of [XXX] issued on [date], the above award is varied as follows:

1. By deleting the full stop at the end of clause 12.4 and inserting:

“unless the time spent by the apprentice is for the purpose of attending re-training or re-assessment arising from the apprentice’s failure to satisfactorily complete the apprenticeship or a relevant stage of the Apprenticeship.”

2. By inserting a new paragraph (iv) in clause 17.5 (d) as follows:

(iv) The allowance at 17.5(d)(i) is not payable where the employer offers to provide transport free of charge whether from the employee’s home or the employer’s registered office.

3. By renumbering 17.5(d)(iv) as 17.5(d)(v).

4. By inserting a new paragraph (e) in clause 24.8 as follows:

(e) an employee with the consent of the employer may accumulate up to five rostered days off for the purpose of creating a bank of rostered days off.

(i) The rostered days off may be taken by the employee on days agreed between the employee and the employer.

(ii) Alternatively, the employee may be paid at ordinary time rates the value of any rostered days off accumulated under this paragraph if the employee requests and the employer approves such pay-out.

5. By renumbering 24.8(e) as 24.8(f)

6. By deleting clause 24.13(b)

7. By renumbering clause 24.13(c) as 24.13(b)

8. By deleting the full stop at the end of clause 25.4(a) and adding at the end of the sentence “to a maximum of 24 hours.”

9. By inserting a new paragraph (iv) in clause 27.4(a) as follows:

(iv) overtime worked by an employee on a call back under clause 26.5 in which the actual time worked is less than three hours is not to be regarded as overtime for the purposes of clause 27.4(a)(i) concerning rest periods after overtime.

10. By deleting clause 27.4(b) and inserting instead:

(b) Shift workers

For shift workers, the required period of consecutive hours off work is eight hours. Other arrangements are as per clauses 27.4(a)(i) to (iv) above.

[XXXX]