IRON ORE PRODUCTION & PROCESSING (BHP BILLITON IRON ORE PTY LTD) AWARD 2002
("BHPBIO AWARD")

1. The submissions made by BHP Billiton (BHP) in regard to whether the BHPBIO Award is subject to the jurisdiction of the Australian Fair Pay Commission (AFPC) are without merit, for the following reasons:
   a. The BHPBIO Award has become a Notional Agreement Preserving State Awards (NAPSA);
   b. As a NAPSA, the wage rates it contains now clearly have effect as an Australian Pay and Classifications Scale (“APCS”);
   c. As an APCS these wages rates are therefore subject to the AFPC’s Wage-Setting Decisions.

2. The role of the Australian Fair Pay Commission in regard to wage-setting as characterised by BHP in their submission is misleading and erroneous (point 1.5).

Under s23 of the Workplace Relations Act 1996 the only objective of the AFPC in performing its wage setting function is to promote the economic prosperity of the people of Australia. In performing this objective the AFPC is to have regard to sub-sections 23(a) – (d), but these are not objectives in themselves.

BHP incorrectly claim (at point 105(k) of their submission) that an increase to the BHPBIO Award would be contrary to providing a safety net for the low paid. An increase to this classification scale would have the opposite effect: It would provide a safety net for the low paid in the industry that it seeks to set a wage scale for.

3. It is widely acknowledged that there is a massive resource boom taking place in Australia, particularly Western Australia, today. This has been in place for the last several years and is set to continue into the foreseeable future. This is evidenced by the record low unemployment in Western Australia and the record profits that companies like BHP are enjoying.

An increase to this pay scale is therefore necessary to maintain the competitiveness of the Mining industry. An increase would have no negative effect on the Mining industry including BHP, and its ability to continue to operate a successful and hugely profitable business. An increase to the pay scale would achieve the objective of the AFPC as set out in s23 by promoting economic prosperity of the people of Australia and in no way damage the competitiveness of BHP.
The pay scale that is in issue here affects those working in the Mining Industry. Work in this industry, by its nature, has significant drawbacks for those working in it. Due to the locality of the mines, it is isolated work often requiring workers to live away from home in temporary and basic accommodation. It is also highly skilled work that is physically demanding. The pay scale reflects this and is therefore higher than those rates in other, less demanding, industries.

The cost of living, as reflected in the current inflation rate of approximately 3%, is increasing. This is especially so in Western Australia which has seen an unprecedented increase in the cost of buying a home. Perth, which was once one of the cheapest cities to buy a house in is now only second to Sydney in terms of affordability. Increases in the cost of food and other essentials has also increased at a greater rate in Western Australia than in other states. A failure to increase this pay scale would effectively make those covered by it worse off. This would be contrary to the objective of the AFPC to promote economic prosperity of the people of Australia.

4. The BHPBIO Award was, as it name suggests, an Award. It was legally and in actuality a State Award. With the amendments to the Workplace Relations Act 1996 that were introduced in March 2006, the Award became a NAPSA. Pay rates in a NAPSA, under the Act, now have effect as an Australian Pay and Classifications Scale (APCS). As an APCS, it is subject to the determinations of the AFPC. The arguments advance by BHP in their submission do not change this fact. The sole motive for BHP making a submission to the AFPC is to further increase its already record profits.

The AFPC should conclude that any increases awarded in AFPC Wage-Setting Decision 2 does apply to the BHPBIO Award that now has effect as an Australian Pay and Classifications Scale.

Jock Ferguson
State Secretary
AMWU

23 April 2007