

**IN THE FAIR WORK COMMISSION**

**SYDNEY NSW**

**Matter No: MS2026/1**

**Emergency application by the Transport Workers' Union of Australia and the Australian Road Transport Industrial Organization for a Time-Sensitive Road Transport Contractual Chain Order**

**WITNESS STATEMENT OF NICOLAS SAUNDERS**

I, **Nicolas Saunders**, state as follows:

**A. Background**

1. I am employed by Australia Post as General Manager, Industrial Relations & Reform.
2. In this role, I am responsible for industrial relations strategy and reform initiatives and for advising on the industrial, operational and practical implications of proposed regulatory instruments, including proposed contractual chain obligations, as they apply to Australia Post and StarTrack.
3. I have read the proposed contractual chain order set out at Attachment A to the application (the **TWU Draft**).
4. In preparing this statement, I have engaged with relevant internal stakeholders, including the Network Operations and Parcel Post and eCommerce Services (**PPeCS**) teams, to understand how the proposed orders would interact with existing contractual arrangements and the practical implications of compliance.
5. Unless otherwise stated, the matters set out in this statement are based on my knowledge and experience. Where I refer to information provided by other teams, I have identified the source of that information.

**B. Proposed obligations between Australia Post and its clients**

***Weekly rate reviews with clients "about fuel costs"***

6. I understand the TWU Draft would require clients of Australia Post (for example, large retail customers) to conduct a weekly rate review with Australia Post about fuel costs.
7. Based on information provided to me by members of our PPeCS team and my understanding of Australia Post's customer base, this obligation would be onerous and operationally impractical at scale.
8. I am informed by the PPeCS team that Australia Post has approximately 33,000 Parcel contracted customers across Domestic, International, and StarTrack services, and while there are frontline account managers, it would not be feasible for some 33,000 customers to conduct individual fuel reviews with Australia Post each week.

### ***Whether a fuel-cost review aligns with existing client arrangements***

9. I am informed by internal stakeholders that for some products and services (including certain parcel products and bundled pricing arrangements), a fuel component is not separately visible or independently managed within the customer's contracted price.
10. I am also informed that, in many other cases, Australia Post manages fuel related pricing adjustments through publication of changes to an existing fuel surcharge (including via website publication) on 30 days' notice to the customer, rather than engaging in weekly bilateral "reviews" with each customer.
11. In these circumstances, a weekly "fuel cost review" would not align with how pricing is structured, negotiated, or administered. A weekly bilateral review specifically on fuel costs would create inconsistencies with longstanding arrangements, and would introduce complexities.

### ***Clause 6 matters to be considered in the review***

12. I understand the TWU Draft lists matters in clause 6 that must be considered as part of any such review.
13. I am informed by internal stakeholders that, based on the way Australia Post client contracts are typically negotiated and administered, mandating a prescribed list of considerations on a weekly cycle is likely to be inconsistent with existing commercial governance and contractual mechanisms, which are not designed for weekly reopening of pricing inputs.

### ***Amending payment terms to ensure fuel cost recovery (client side)***

14. I understand the TWU Draft would require that payment terms be amended to ensure Australia Post is paid rates by the client that achieve fuel cost recovery.
15. Based on information provided to me by relevant internal teams, I believe that payment terms are embedded in negotiated contracts and commercial systems. Changes to these terms require governance, approvals, and time to implement. Where changes flow from individual discussions, over time there is an increased likelihood of divergence in payment terms and associated increases in administrative burden, compliance risk, and disputation (including about methodology, timing, and implementation across varied customer contracts).

### ***Downstream contract terms (client side)***

16. I understand the TWU Draft would require the client to ensure that downstream contracts in the chain contain terms imposing similar weekly review and fuel recovery obligations.
17. Under Australia Post's Delivery Partner model subcontractor or employee drivers can be engaged by Delivery Partners to perform delivery services.
18. Australia Post's contractual relationship is with the Delivery Partner entity. Australia Post does not have a direct contractual relationship with, or direct control over, the drivers that Delivery Partners engage through subcontracting or employment.

19. Australia Post's clients are commercially and operationally far removed from these arrangements. Clients do not engage or deal with Australia Post's Delivery Partners directly, and clients do not have any particular oversight over the Delivery Partners or their subcontracted workforces.
20. It would be a material change from existing arrangements to have Australia Post's clients be responsible for ensuring that Australia Post and Delivery Partners have certain terms within downstream contracts. This would extend clients' obligations beyond the scope of their contract with Australia Post and beyond what the client can practically oversee or enforce.

**C. Proposed obligations between Australia Post / StarTrack and contractors**

***Scale of contractor arrangements***

21. Australia Post and StarTrack engage with a large contractor population, including approximately:
  - (a) 1,000 StarTrack Courier contractors;
  - (b) 480 StarTrack Premium contractors;
  - (c) 300 StarTrack Express contractors; and
  - (d) 2,000 Australia Post Delivery Partners.
22. These contractors operate under different contractual models, rate structures and service profiles and are most commonly paid on fortnightly or four-weekly payment cycles.
23. Australia Post Delivery Partners engage approximately 10,000 – 12,000 personnel across the network made up of subcontractors and employees.
24. An obligation to conduct weekly fuel rate reviews would require Australia Post and StarTrack to engage on a weekly basis with many thousands of contracting entities, each with different operating characteristics, and fuel usage profiles.
25. Based on information provided to me by relevant internal teams, the scale and diversity of those proposed arrangements would materially increase administrative complexity, systems burden and dispute risk, particularly when compared with existing monthly or fortnightly review mechanisms that align with payment cycles.

***Weekly rate reviews with contractors "about fuel costs"***

26. I understand the TWU Draft would require Australia Post / StarTrack to conduct a weekly rate review with contractors about fuel costs.
27. This is a frequency that does not align with existing payment and contracting systems within Australia Post and StarTrack.
28. I am informed by relevant internal teams that many contractor arrangements operate on fortnightly or four-weekly payment periods. Mandating weekly review outcomes to be implemented within contractual rate settings creates a misalignment between

review frequency and the cadence at which payments are calculated, settled and reconciled.

29. Australia Post / StarTrack can monitor fuel prices on a weekly basis, and we have access to fuel price data and indices that enable weekly observation of movements.
30. However, the proposed obligation goes beyond this. It would require collection of other information specific to each contractor such as local fuel cost variations and operational variations where relevant (presumably also on a weekly basis). It would then require engagement with each contractor in order to determine whether adjusted rates or additional payments are to be paid.
31. On my understanding of the TWU Draft, in practical terms, Australia Post / StarTrack would be required to engage each week with a very large contractor base (including StarTrack Courier contractors and Australia Post Delivery Partners), operating under different contract models, and rate structures.
32. This engagement would effectively be required to occur contemporaneously with the client engagement specified in the TWU Draft.

#### ***Alignment with existing contractor arrangements***

33. I am informed by relevant internal teams that in some arrangements, including piece rate and other bundled payment structures, fuel is not separately identified as a distinct cost component capable of weekly adjustment without fundamentally redesigning the pricing model.
34. There are also segments of StarTrack where fuel cost recovery is managed in accordance with arrangements negotiated with the TWU including, for example a contract agreement made under Chapter 6 of the *Industrial Relations Act 1996* (NSW).
35. Where a separate running or fuel component is not paid, weekly engagement “about fuel costs” under a rate review mechanism as has been proposed by the TWU would not be feasible without redrafting contractual terms and supporting systems. In my view, that would represent a fundamental change to the nature of those arrangements.

#### ***Clause 10 matters and benchmarks (Fueltrac vs AIP)***

36. I understand the TWU Draft lists matters in clause 10 that must be considered as part of any contractor fuel review, including the weekly reports released by the Australian Institute of Petroleum (**AIP**) about the retail cost of fuel.
37. In calculating fuel cost adjustments for Australia Post delivery partners, Australia Post uses wholesale price reports from Fueltrac, an independent fuel monitor, which provides reporting by capital city for diesel, LPG, unleaded petrol and aviation fuel.
38. I am informed by relevant internal teams that mandating the use of, or overlaying, a weekly retail benchmark from AIP in place of existing methodologies risks inconsistency and dispute about which benchmark prevails and how differences are reconciled, without necessarily improving cost recovery outcomes.

### ***Amending payment terms to ensure fuel cost recovery (contractor side)***

39. I understand the TWU Draft would require payment terms to be amended to ensure contractors are paid rates that achieve fuel cost recovery.
40. I am informed by relevant internal teams that payment terms are embedded in contracts, governance and systems configurations and are not designed to be amended weekly.
41. A mandated amendment obligation would, I am informed, create practical issues including:
  - (a) multiple contract variants where contractors do not agree to amended terms at the same time;
  - (b) increased internal approval, documentation and system change burden; and
  - (c) increased dispute risk about calculation, applicable dates and benchmarks.
42. I am informed by relevant internal teams that, where existing methodologies (such as Fueltrac) differ from a mandated benchmark, embedding competing indices into payment terms would further increase complexity and increase potential for confusion and disputes.

### ***Steps already taken by Australia Post and StarTrack***

43. Australia Post has already implemented a contractual change which provides for monthly contract fee reviews, to account for the movement in fuel costs.
44. StarTrack has also implemented a more frequent review mechanism, temporarily moving from a monthly to a fortnightly fuel review arrangement. These reviews are designed to better respond to fuel price movements while remaining aligned with contractor payment structures, systems, and administrative capacity.
45. I am informed by relevant internal teams that these changes have been implemented within existing contractual frameworks.
46. I am informed by relevant internal teams that these changes represent a proportionate and operationally workable mechanism to address fuel volatility without the disruption and system risk that would arise from mandatory weekly amendment to payment terms.

### ***Downstream contractor arrangements***

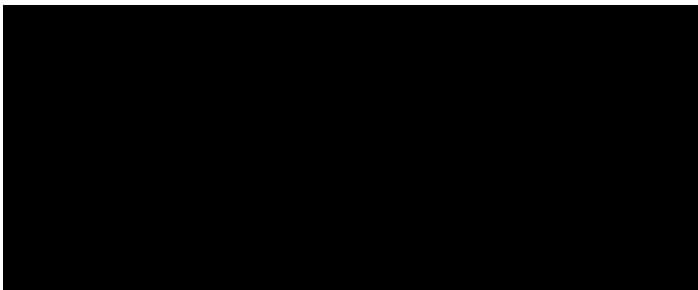
47. I understand the TWU Draft would require Australia Post / StarTrack to ensure that downstream contracts (for example, between Delivery Partners and their subcontractors) contain weekly review and fuel recovery terms.
48. Australia Post does not have full visibility of, or control over, the detailed commercial terms of downstream subcontractor arrangements. It would be a material departure from longstanding contracting arrangements for Australia Post to be required to have this level of involvement in downstream operations.
49. Australia Post has approximately 3,400 contracts with 2,000 Delivery Partners, and these entities comprise approximately 10,000-12,000 personnel, a significant

proportion of which would be subcontractors. I am informed by relevant internal teams that taking steps to ensure mandated weekly review clauses in those downstream arrangements between Delivery Partners and their subcontractors would require extensive auditing, monitoring and enforcement, introducing significant compliance burden, cost and legal risk. It is also unclear how Australia Post could feasibly comply with an obligation as has been framed in the TWU Draft.

50. I am advised that this would require Australia Post to introduce significantly increased oversight, audit and enforcement activities across very large numbers of downstream arrangements over which Australia Post has no contractual rights, materially increasing compliance burden and legal risk.

**D. Proportionality and network impacts**

51. I am informed by relevant internal teams that the nature of the obligations proposed in the TWU document, and the systems, contractual and governance changes required to comply with them, especially at scale, are not consistent with an emergency or time-sensitive intervention—particularly where alternative mechanisms are already in place and operating to respond to fuel price volatility.
52. Weekly recalibration and mandatory change to payment terms would introduce significant administrative complexity, increase disputation and compliance risk, and undermine contractual certainty, without delivering commensurate benefit when compared with more targeted and workable cost recovery mechanisms such as monthly or fortnightly reviews aligned to existing payment cycles.



Signed: \_\_\_\_\_

**Nicolas Saunders**

**Dated:** 13 April 2026