



COMMUNITY & PUBLIC SECTOR UNION ♦ SPSF GROUP NSW BRANCH

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IN REPLY PLEASE QUOTE  
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3 February 2015

Greg Everett  
Delta Electricity  
Vales Point Power Station  
PO Box 7285  
MANNERING PARK NSW 2259

**Attn: Mr Steve Gurney**

Dear Mr Everett,

By email: [steve.gurney@de.com.au](mailto:steve.gurney@de.com.au)  
[Greg.everett@de.com.au](mailto:Greg.everett@de.com.au)

**Re: Good faith bargaining requirements**

The combined unions continue to seek to negotiate in good faith towards a new enterprise agreement. As per our meeting yesterday, the unions acknowledge the discussions currently underway with the operators and propose the following timeline:

- a position will be put by the unions by the end of this week in relation to the operators arrangements
- Delta to consider such proposal during the week commencing 9 February 2015, with further discussions arranged as appropriate
- a mass meeting to be arranged for 17 February 2015, to allow the unions to report back and receive final instructions from the membership in relation to redundancy provisions and the operator arrangements.

The Community & Public Sector Union (CPSU) has consistently stated our need to report back to our members and to get updated instructions given the changed environment created by Vales Point not being sold.

Delta's recent behaviour, including the cancellation of the unions' report back meeting arranged for 11 January, the repeated refusal to bargain further, putting a document out to vote when discussions had not concluded and the refusal today to agree to a rescheduled report back meeting as requested, leaves the CPSU with the view that Delta Electricity is not bargaining in good faith.

The Fair Work Act 2009 states at section 228 that bargaining representatives must meet the good faith bargaining requirements.

***Bargaining representatives must meet the good faith bargaining requirements***

*(1) The following are the good faith bargaining requirements that a bargaining representative for a proposed enterprise agreement must meet:*

- (a) attending, and participating in, meetings at reasonable times;*
- (b) disclosing relevant information (other than confidential or commercially sensitive information) in a timely manner;*
- (c) responding to proposals made by other bargaining representatives for the agreement in a timely manner;*
- (d) giving genuine consideration to the proposals of other bargaining representatives for the agreement, and giving reasons for the bargaining representative's responses to those proposals;*
- (e) refraining from capricious or unfair conduct that undermines freedom of association or collective bargaining;*
- (f) recognising and bargaining with the other bargaining representatives for the agreement.*

So far there is evidence that Delta has breached a number of the good faith bargaining requirements.

In relation to meetings - Delta has unreasonably scheduled meetings with little, if any, notice. A mass meeting with the employees was cancelled with less than 24hrs notice without the agreement of the bargaining representatives. Delta walked out of a meeting to discuss the operators conditions thereby refusing to bargain.

In relation to consideration of proposals – Delta has not demonstrated genuine consideration of issues as the repeated responses have been words to the effect of “we are just not going to do that”. Repeated requests for reasons for Delta’s responses have been refused.

In relation to conduct – Delta has engaged in capricious conduct, clearly demonstrating unpredictable changes in attitude or behaviour; walking out of meetings, unaccountable changes in attitude and withdrawing an Enterprise Agreement 30 mins before the ballot was to commence.

In relation to bargaining representatives - Delta has attempted to refuse to recognise the designated bargaining agents, rather attempting to bargain directly with the employees at large, as evidenced by your last email of 27 January 2015. Only scheduling another bargaining meeting after general communication with the employees seemingly failed.

The unions call upon Delta to return to good faith bargaining and schedule a mass meeting on the proposed day. We consider this time frame is reasonable to properly allow for discussions and resolution of the issues relating to the operators, prior to reporting back to our members. If, within the next week, a meeting is not

scheduled as requested, the unions will be considering making an application to the Fair Work Commission for good faith orders.

I can be contacted further in this regard on 1300 772 679 or [jjeffries@psa.asn.au](mailto:jjeffries@psa.asn.au) .

Yours sincerely,

A handwritten signature in cursive script that reads "Jann Jeffries".

Jann Jeffries  
**Industrial Officer**